

All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 Wednesday, 10 November 2021

2 [Open session]

3 [The accused appeared via videolink]

4 --- Upon commencing at 9.29 a.m.

5 PRESIDING JUDGE VELDT-FOGLIA: Good morning.

6 Court Officer, can you please call the case.

7 THE COURT OFFICER: Good morning, Your Honours. This is case
8 KSC-BC-2020-05, The Specialist Prosecutor versus Salih Mustafa.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

10 First of all, I will, as always, call appearances.

11 Mr. Prosecutor, for the record, could you tell us who is present
12 for the office.

13 MR. MICHALCZUK: Good morning, Your Honours. Good morning,
14 everyone. The Prosecution is represented today by Silvia D'Ascoli,
15 Associate Prosecutor; Filippo De Minicis, another
16 Associate Prosecutor; Julie Mann, she's our Case Manager; also
17 Deborah Osborne, our SPO intern, sitting over there. And my name is
18 Cezary Michalczuk, I'm SPO Prosecutor.

19 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

20 Victims' Counsel, you have the floor.

21 MS. PUES: Good morning, Your Honours. Good morning, everybody.
22 The Victims' team is today represented by Marie-Pier Barbeau, Senior
23 Legal Associate; Liesbeth Zegveld, co-counsel; and by myself,
24 Anni Pues, as counsel.

25 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

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1 Defence counsel, you have the floor.

2 MR. VON BONE: Good morning, Your Honours. The Defence is
3 represented by Betim Shala, co-counsel, and Mr. Fatmir Pelaj,
4 interpreter and investigator. Mr. Mustafa is joining us today by
5 videolink. And myself, my name is Julius von Bone.

6 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

7 Mr. Mustafa, can you hear us fine?

8 THE ACCUSED: [Via videolink] [Interpretation] Yes, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well. And, for the
10 record, are you appearing before Trial Panel I.

11 Before we start with the testimony of the witness who will be
12 testifying today, W04669, I would like to discuss a few
13 organisational matters.

14 As regards the hearing schedule for the beginning of 2022, we
15 will be sitting -- I cannot give you all the information yet, but we
16 will be sitting in the week of the 17 of January -- or starting on
17 Monday, 17 January, 24 January, and 31 January, as well as in the
18 week of 7 February in order to hear the testimony of the four SPO
19 witnesses scheduled to testify in 2022. And during those weeks, we
20 will be sitting, in principle, three days a week.

21 I cannot indicate which days of the week yet, but we will try to
22 do that as soon as possible. And, of course, the -- there is another
23 thing, yes. The parties and the Victims' Counsel are informed that
24 there will be no hearing from 25 February, that's a Friday, till
25 4 March. And the two weeks in February which I have not mentioned

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1 with the first day of the week, those are still under discussion. So
2 I hope that in this way you have a little bit more of an overview,
3 and, of course, as soon as possible, we will come through with exact
4 dates because we are aware that for everybody it is important to know
5 when we are expected to be in court and when not.

6 Good. The next matter to discuss concerns the Defence.

7 Defence counsel, it is about the disclosure batch 43. It
8 appears when stamping the documents the document with DSM00393 was
9 skipped and with the consequence that, from that number on, the
10 documents disclosed within that batch are mismatched, with the number
11 DSM00411 being stamped twice, on two different documents. We liaised
12 with -- with our Court Management Unit colleagues and they informed
13 us that, of course, it can be corrected and they can assist you with
14 doing that. And my suggestion would be that you liaise with them in
15 order to resolve it. And I leave it up to you to check whether all
16 the documents you intended to disclose were indeed enclosed or you
17 have to add some.

18 Furthermore I would like to discuss three matters with the SPO.

19 Yesterday a document was disclosed in batch 95 and we noted that
20 there was not an English translation provided. And the Panel would
21 appreciate to receive an English translation of this document as soon
22 as possible.

23 Is there something you would like to react on that,
24 Mr. Prosecutor?

25 MR. MICHALCZUK: Is that one disclosed under Rule 103?

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1 PRESIDING JUDGE VELDT-FOGLIA: Yes. [Microphone not activated].

2 MR. MICHALCZUK: A number of documents in Albanian, I believe we
3 are talking about 11 pages or 11 documents?

4 THE INTERPRETER: Microphone for Your Honour.

5 PRESIDING JUDGE VELDT-FOGLIA: I don't want to reveal the
6 content, so it's difficult. I can tell you what it is about, so we
7 have to go into private session, but I cannot say you the number of
8 pages because I don't know it by heart.

9 MR. MICHALCZUK: Okay. Your Honours, I think we are on the same
10 page and the translation of these documents might be provided. We
11 will review that. Most likely we will do that, Your Honours.

12 Thank you.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I believe that
14 you still have to get back to the Panel on the matter concerning
15 filing 201, namely, the item showed to the accused during his SPO
16 witness interview. Are you already in a position to get back to us
17 on that point?

18 MR. MICHALCZUK: Yes, Your Honours, I am.

19 Indeed there were several items which were shown to the accused
20 during his interview and later on some of those items were not in the
21 annex to the bar table motion that the SPO filed. So I owe
22 Your Honours an explanation. It's going to be a very short one.

23 So those items which were not in the -- which are in the
24 conversion table but were not disclosed, the Prosecution is not going
25 to -- is not going rely on them. We are not going to tender them

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1 into evidence. However, there are three documents which were
2 disclosed which were shown to the accused during his interview, and I
3 would like to discuss just those three documents.

4 So there is the first document and the ERN number is 7000593 to
5 7000609 RED. It features in the bar table motion, indeed, but we are
6 not going to tender it into evidence. However, this document
7 pertains to the testimony of the witness who is still to give
8 evidence before this Court and we might, if we deem necessary during
9 the course of his testimony, tender that particular document through
10 that witness. But this is a matter for January, not for today.

11 The second item is under the ERN U001-7059-U001-7061-ET. It's a
12 typewritten regulation of the Kosovo Liberation Army military
13 intelligence service, and the Prosecution does not intend to tender
14 this one into evidence. We are not.

15 The third item is under the ERN number 040892-040892, and this
16 is the newspaper article, and we intend to tender this into evidence
17 and it appears in the bar table motion at number 21, under the -- a
18 different ERN, 020435-020436. And there is -- it appears also in
19 another ERN which is a scan of the original article, the same
20 article, and the ERN is 041888-041889.

21 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Prosecutor. Your
22 position is duly noted and ...

23 [Specialist Prosecutor confers]

24 MR. MICHALCZUK: Your Honours, just one clarification. The
25 first document I mentioned out of those three documents is not in the

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1 bar table motion. That's the only --

2 PRESIDING JUDGE VELDT-FOGLIA: And that is which one?

3 MR. MICHALCZUK: This is 7000593-7000709 RED.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. Yes. Your position is
5 duly noted. Should the Panel decide to admit the accused's SPO
6 interview as requested in filing 201, it may reassess at a later
7 stage the need to order the submission of the missing associated
8 items for the determination of the truth pursuant to Rule 137(1).

9 Thirdly, and lastly, before we move to the witness -- to the
10 testimony of Witness W04669, and that is also in relation to filing
11 201, we noted that the video recording of the accused's SPO interview
12 appears not to have been disclosed in Legal Workflow. And the
13 question of the Panel is if the SPO would be in a position to
14 disclose the video recording shortly in order to facilitate the
15 Panel's assessment of the portion of filing 201 pertaining to the
16 accused's SPO interview.

17 MR. MICHALCZUK: Your Honours, it's not a problem. We will do
18 it at the first opportunity.

19 PRESIDING JUDGE VELDT-FOGLIA: Very well.

20 Then I won't give an oral order on that because you agreed to do
21 it.

22 Good. Let's now move to the testimony of Witness W04669.

23 Madam Court Usher, could we please usher the witness into the
24 courtroom.

25 [The witness entered court]

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1 PRESIDING JUDGE VELDT-FOGLIA: Please have a seat.

2 Mr. Witness, good morning, and welcome to the
3 Specialist Chambers. Can you hear me?

4 THE WITNESS: [Interpretation] Yes. Good morning. Thank you.

5 PRESIDING JUDGE VELDT-FOGLIA: How are you, first of all?

6 THE WITNESS: [Interpretation] I am well. Thank you.

7 PRESIDING JUDGE VELDT-FOGLIA: Okay. Thank you, Mr. Witness.
8 Today we will start with your testimony, but before we begin, I have
9 several remarks.

10 Let me first explain to you the protective measures that you
11 have been granted for your testimony. You have been assigned a
12 pseudonym, and it means that we will never mention your name but we
13 will all refer to you as "Mr. Witness" to make sure that the public
14 does not know your name.

15 You also have face and voice distortion, which mean that no one
16 outside the courtroom watching the broadcast can see your face or
17 hear your real voice during the testimony.

18 When you answer questions that will not reveal your identity, we
19 will do so in open session, which means that the public can hear what
20 is said in the courtroom.

21 When you are asked to describe anything that relates
22 specifically to you or to mention facts that might reveal your
23 identity, we will do so in private session. And that means that
24 there is no broadcast and no one outside the courtroom can hear what
25 is said in the courtroom.

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1 If anything is said during open session that may identify you,
2 we will protect this information. Your testimony will be broadcast
3 with a delay, and we can remove any such information from the
4 broadcast that will be seen and heard by the public, and from the
5 public transcript of the proceedings.

6 Are the protective measures that I just explained to you clear
7 for you, Mr. Witness?

8 THE WITNESS: [Interpretation] Yes, Your Honour.

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, you are called to
10 testify before the Specialist Chambers in the case of The Specialist
11 Prosecutor versus Salih Mustafa to assist the Panel to reach a
12 verdict. After you have taken your solemn declaration to tell the
13 truth, you will be asked questions by the lawyers from the Specialist
14 Prosecutor's Office, who are sitting over there; the lawyers from the
15 Victims' Counsel, the lawyers from the victims assigned to
16 participant in the proceedings, there is the Victims' Counsel; and
17 the Defence counsel of Mr. Mustafa; and by us, Judges of the Panel.

18 I would like to provide you with some guidance for answering the
19 questions that you will be asked, Mr. Witness.

20 Listen carefully to each question and if you don't understand,
21 feel free to ask for the question to be repeated. We want you to
22 tell the truth and tell us what you have seen, you what heard,
23 sensed, experienced, all what you did yourself. If you did not see
24 or hear it yourself but you found out in some other way, then you
25 should say so and explain to us.

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1 You may not remember all the details of the events, and this is
2 perfectly fine. Please testify just on what you remember. Do not
3 guess. Do not make things up. There's nothing wrong in saying, "I
4 don't know" or "I don't remember."

5 Have you understood all this?

6 THE WITNESS: [Interpretation] Yes. Thank you, Your Honour.

7 PRESIDING JUDGE VELDT-FOGLIA: I would also like to give you
8 some practical advice on your testimony, Mr. Witness.

9 Everything what we say here is translated and recorded, so it is
10 important to speak into the microphone, to speak clearly, and to
11 speak at a slow pace to allow the interpreters to translate
12 everything.

13 You should only start speaking when the person asking you a
14 question has finished. And when a question is asked, please count in
15 your head up till five, and only then give an answer. And this pause
16 of five seconds is essential for us to properly hear, translate, and
17 record what you are saying.

18 And if you have any questions or you need a break, just raise
19 your hand and you will be given the opportunity to speak.

20 Have you understood all this, Mr. Witness?

21 THE WITNESS: [Interpretation] Yes, Your Honour. Thank you. I
22 understood it.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well.

24 As we must do with every witness, I will now ask you to read
25 your solemn declaration to tell the truth, and I remind you that it

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1 is an offence within the jurisdiction of the Specialist Chambers to
2 give a false statement.

3 Mr. Witness, please read the text provided to you.

4 THE WITNESS: [Interpretation] All right, I understand.

5 Conscious of the significance of my testimony and my legal
6 responsibility, I solemnly declare that I will tell the truth, the
7 whole truth, and nothing but the truth, and that I shall not withhold
8 anything which has come to my knowledge.

9 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness. You are
10 now under oath to tell the truth.

11 We can now begin with your testimony, and we will start with the
12 questioning by the SPO.

13 Mr. Prosecutor, you have estimated five hours for questioning of
14 this witness. Please inform, as usual, if there's a change for
15 planning purposes.

16 You have the floor.

17 MR. MICHALCZUK: Your Honour, thank you very much. For now
18 there is no change, but if we realise that we can save some time, we
19 will inform Your Honours in advance.

20 I would like to kindly ask Your Honours to move into private
21 session just to take some personal details from this witness and also
22 cover some initial topics that might reveal the identity of this
23 protected witness.

24 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can you
25 please bring us into private session.

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1 ~~[Private session]~~ [Open session]

2 THE COURT OFFICER: Your Honours, we're in private session.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

4 Mr. Prosecutor, have you the floor.

5 MR. MICHALCZUK: Thank you very much.

6 WITNESS: W04669

7 [Witness answered through interpreter]

8 Examination by Mr. Michalczuk:

9 Q. Mr. Witness, we are now in private session which simply means
10 that nobody outside of this courtroom can see you or can hear
11 anything what you are saying. What is your name and surname?

12 A. [REDACTED]

13 Q. What is your father's name?

14 A. [REDACTED]

15 Q. The date of your birth?

16 A. [REDACTED]

17 Q. What is your current occupation?

18 A. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. Do you speak or understand a little bit of English?

22 A. Yes.

23 MR. MICHALCZUK: Your Honour, this question has been posed
24 solely for Your Honours' knowledge because there might be matters
25 that we will be discussing later on, and in this case, we'd either

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1 ask the witness to be removed from the courtroom or take some other
2 measures, if need be.

3 Q. Mr. Witness, I'm going to ask you to think back to the year
4 1999, the early part of that year. At that time, where were you
5 living?

6 [REDACTED]

7 Q. What were you doing at that time?

8 A. At that time, it was war time. The offensive was at all times
9 close, very close to us, and we were staying at home most of the
10 time.

11 Q. Were you working at that time in 1999?

12 A. In the beginning of 1999, because the offensive happened
13 sometime in February and March, [REDACTED]

14 [REDACTED] so from time to time, I would work [REDACTED]

15 Q. Did you belong at that time to any political party or political
16 group?

17 A. Officially, as official members, we were not members of any
18 political party, but the only party that we supported was [REDACTED]
19 [REDACTED].

20 Q. You mean by [REDACTED]

21 A. Yes.

22 MR. MICHALCZUK: Your Honour, we can now move back to open
23 session.

24 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
25 bring us into open session, please.

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1 [Open session]

2 THE COURT OFFICER: Your Honours, we're in public session.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

4 Please proceed, Mr. Prosecutor.

5 MR. MICHALCZUK:

6 Q. Mr. Witness, did you at any point in 1999 attempt to join the
7 Kosovo Liberation Army?

8 A. Yes.

9 Q. Could you tell the Court how did that happen.

10 A. Yes. Following many massacres, especially the massacres
11 committed by Serbia in Drenica upon the family of Adem Jashari, my
12 will to defend my country and to voluntarily carry out military
13 duties was even greater, so I wanted to join the KLA at the time.

14 Q. Where did you go to join the KLA?

15 A. Initially I went to [REDACTED] which is [REDACTED]

16 [REDACTED]. And I reported there for the first

17 time sometime in February 1999 at around 4.00 in the morning.

18 Q. Why did you go to -- particularly to that place, to [REDACTED],
19 and not to any other place to join the KLA?

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 MR. MICHALCZUK: Your Honours, we will probably need to redact
24 this information because it could lead to the revealing of the
25 identity of this witness.

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1 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

2 MR. MICHALCZUK:

3 Q. [Microphone not activated].

4 PRESIDING JUDGE VELDT-FOGLIA: Microphone, please.

5 MR. MICHALCZUK:

6 Q. Mr. Witness, I would advise you when we are in the open session,
7 and this is the situation right now, that we are in the open session,
8 not to reveal any names or places or events that could reveal
9 particularly your identity. This information that you have just
10 given us will be removed, so nobody out of this courtroom will hear
11 it, but be vigilant, and I also try to craft my questions in a way
12 that will not prompt you to reveal such sensitive information.

13 A. All right.

14 Q. What was in that place, [REDACTED], when you got there in, as you
15 said, [REDACTED]?

16 A. As far as I know, it's [REDACTED]. There, there was a base
17 of the Kosovo Liberation Army and that's why I went to report at
18 4.00 a.m.

19 Of course, first I was stopped by the guards and then they
20 called the person in charge of that point, and then I met that
21 person.

22 Q. Who was that person in charge whom you met?

23 A. Yes, yes.

24 Q. My question was who was that person whom you met?

25 A. That person was [REDACTED]. This is how they called him.

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1 Q. Do you know his name and surname?

2 A. No.

3 Q. And what did you tell [REDACTED] when you met with him?

4 A. I told him why I was there, why I had gone there voluntarily,
5 and he informed me that the conditions there were not quite good for
6 me to join because the situation was tense. And he said that, "It's
7 better for you to go somewhere [REDACTED] It's
8 better for you to go to Zllash and report there."

9 Q. What was Daja in charge of?

10 A. They told me he was in charge of that point, a sort of a
11 commander.

12 Q. Could you tell us a few words about that place, [REDACTED]. You
13 said it was KLA place. Do I understand that correctly?

14 A. It was a place where the KLA was stationed, where the soldiers
15 of the Kosovo Liberation Army were stationed. It was a base of
16 theirs, and they were in a state of alert and the area was surrounded
17 by fortifications.

18 Q. You mean KLA fortifications? That's what you mean?

19 A. Yes.

20 Q. Were there soldiers there in that place, [REDACTED]?

21 A. Yes.

22 Q. How were they dressed?

23 A. They were dressed in various clothes. Some in military
24 camouflage uniforms; some with black clothes in the upper part of the
25 body; some had the KLA emblem on the arm.

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1 Q. Were those soldiers armed?

2 A. Yes.

3 Q. From your knowledge at that time, were there other places in
4 Kosovo, like [REDACTED], where you could go and attempt to join the
5 Kosovo Liberation Army?

6 A. From what I knew, there were various places. [REDACTED]

7 that [REDACTED]

8 [REDACTED]So that is when

9 I found out that there was one there as well.

10 MR. MICHALCZUK: Your Honours, also it would be good maybe to
11 remove this reference to "[REDACTED]," that Mr. Witness
12 mentioned.

13 PRESIDING JUDGE VELDT-FOGLIA: Yes, noted that.

14 [REDACTED]

15 [REDACTED]

16 MR. MICHALCZUK:

17 Q. This will also be redacted.

18 So as I understand it, [REDACTED] suggested to you to go to
19 Zllash to

20 join the Kosovo Liberation Army; is that correct?

21 A. Yes. To do military training there.

22 Q. Did you do as Daja suggested?

23 A. Yes.

24 Q. From that place, [REDACTED], did you go first back to your place
25 where you lived or directly to [REDACTED] suggested?

26 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please don't mention

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1 anything about which place that is. You are in open session.

2 MR. MICHALCZUK:

3 Q. So my question was again: From that place, after you had
4 received that advice from [REDACTED] to go to Zllash, did you go
directly

5 from [REDACTED] to Zllash or did you go back home?

6 A. I went back home and after preparations, after I got the things
7 that I needed, I think it was four or five days later or a week later
8 when I went to report there.

9 Q. What happened when you reached Zllash?

10 A. Everything was all right there. I met a person who told me
11 where I should go. And then I began with military training.

12 Q. Who was that person who told you where you should go?

13 A. The person was from that place, and his [REDACTED],
14 [REDACTED].

15 Q. Do you know his name perhaps?

16 A. No, but I do know him. If I see him on a photograph.

17 Q. Where did that person, [REDACTED], take you?

18 A. That person initially took me to an oda, to a traditional
19 guest-room where everybody had gathered.

20 Q. And whom do you meet in that oda?

21 A. At the beginning, I didn't know any of them, but after the
22 introduction I know that [REDACTED] and some others
23 were there.

24 Q. Is my understanding correct that on that first day when you
25 reached Zllash, you went to that oda and you met [REDACTED] and

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1 [REDACTED]?

2 A. As far as I remember, that's how it was.

3 Q. Let's start from [REDACTED]. How do you know it was his name?

4 A. [REDACTED], told me that he was the person in charge
5 of that position, of that point.

6 Q. Did [REDACTED] also tell you that this is [REDACTED], or
7 didn't he?

8 A. Yes. Because I asked, "Who is the person in charge of this
9 point?" And he told me this person's name and last name.

10 Q. Did you talk to [REDACTED] on that day?

11 A. We only greeted each other. And I sat in the oda and listened
12 to the conversations they had. They were talking about issues
13 related to the war and preparations.

14 Q. Did you tell during that encounter with [REDACTED] the reason
15 why you came to Zllash?

16 A. Yes, of course.

17 Q. So what exactly did you tell him?

18 A. I told him that I had come there voluntarily, to do my military
19 duties, to become a member of the KLA, and to defend my country.

20 Q. Did he ask you any questions?

21 A. Yes. He asked me where I was from, whose son I was, how many
22 family members I had. Things like that.

23 Q. When the [REDACTED] told you that [REDACTED] was in charge, how
24 did you understand? What was [REDACTED] in charge of?

25 A. In charge of the location where I went to.

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1 Q. When you met [REDACTED], how was he dressed?

2 A. I don't remember now whether he was wearing just one part of the
3 uniform or not. I don't remember. I think he had the pants. They
4 were part of the uniform. And in the upper part of his body he had a
5 shirt or something. But most of the people in that area, including
6 [REDACTED], were wearing civilian clothes. The persons in the oda.
7 Some were partially wearing uniforms, only the trousers or only the
8 upper part.

9 Q. Did Mr. [REDACTED] have any markings on his outfit? Or
10 emblems?

11 A. Yes. He had his own uniform. Of course, later on, I also
12 noticed the emblem, the emblem of the Kosovo Liberation Army.

13 Q. The second person you mentioned by the name was [REDACTED]
14 [REDACTED]

15 and the others. Did I get that correctly?

16 A. Correct.

17 Q. You said that in that oda there were some discussions about the
18 war, as you put it. Do you remember anything in particular from that
19 meeting?

20 A. There was nothing particular. Those were conversations usually
21 held in an oda. According to our tradition, oda is a guest-room
22 where you talk about current things. So at the time, they were
23 discussing the war, politics, and different subjects.

24 And the issue of who was the general commander of the army was
25 also brought up, and I said, "According to the constitution, this is

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1 the president of the republic, and that is Ibrahim Rugova."

2 Q. What did they say to that, when you made such a remark?

3 A. Nothing. Nobody opposed there that day.

4 Q. Whom did they mention as the commander of the Kosovo Liberation
5 Army?

6 A. Who was nominated at the time, like Hashim Thaci.

7 Q. When you went to Zllash on that occasion, did you provide any
8 contribution to the Kosovo Liberation Army, voluntary contribution?

9 A. Yes. We were poor at the time and lived in difficult
10 conditions, and I gave my last 100 Deutschmarks that were the last --
11 not only for me but for my family as well. And I have a receipt that
12 they issued to me once I paid that money.

13 Q. How did that receipt look? If you remember, of course.

14 A. Well, the receipt was of this size, like this box, and there was
15 the two-headed eagle, black in colour, whereas the paper of the
16 receipt was white. And the receipt contained the date, my signature
17 and the person who received the money. And the amount, how much I
18 gave.

19 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. Prosecutor. I
20 would like to go to private just for one minute to discuss a small
21 matter, and then I will give you the floor back and we can go into
22 public again.

23 MR. MICHALCZUK: Of course, Your Honour.

24 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we go
25 into private, please.

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1 ~~[Private session]~~ [Open session]

2 THE COURT OFFICER: Your Honours, we're in private session.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

4 My suggestion would be that if we have a proposal for redaction,
5 that we go into private just also -- you can -- we can do it by
6 e-mail, but if the -- if it has to be done quickly, I prefer to go
7 into private in order not to attract too much attention to the fact
8 that we are redacting it. And then we can also freely explain to
9 the -- to Mr. Witness why or whatever. But that would be my
10 suggestion.

11 MR. MICHALCZUK: It's perfectly clear, Your Honour.

12 PRESIDING JUDGE VELDT-FOGLIA: Okay.

13 MR. MICHALCZUK: I'll do it.

14 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could we go
15 into public again.

16 [Open session]

17 THE COURT OFFICER: Your Honours, we're in public session.

18 PRESIDING JUDGE VELDT-FOGLIA: You have the floor,
19 Mr. Prosecutor.

20 MR. MICHALCZUK:

21 Q. So the primary purpose of your going to Zllash was to undergo
22 the training, as I understand, and my question is did you actually
23 undergo such a training?

24 A. Yes, for a week or ten days. They lasted maybe ten, 12 days,
25 but not more than that. We had instructors who were appointed to

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1 teach us both theory and practice.

2 Q. Do you know the names of those instructors?

3 A. Yes.

4 Q. Could you tell us those names and - if you remember, of course -
5 what were the scopes of their respective teachings.

6 A. They would teach military tactics on the ground for infantry,
7 then physical exercise. For physical exercise, had a separate
8 instructor. Then for using weapons, the A-47 [as interpreted], M84,
9 and the long-barrelled weapons, M48.

10 Q. My question pertains, of course, to those areas that you have
11 just mentioned but also pertains to the names of those instructors
12 who were providing all that training that you have mentioned.

13 So could you tell the Court the names of those persons or, if
14 you don't know the names, perhaps their nicknames or nom de guerre
15 that they were using?

16 A. For physical exercise and for AK-47, [REDACTED] was in charge.
17 His name of war was [REDACTED].

18 Q. Do you know the names or nicknames of other trainers?

19 A. Yes. For long-barrelled weapons, AK-48 and for the Yugoslav
20 make 10, so-called 10 weapon, was [REDACTED].

21 THE INTERPRETER: The interpreter did not get the name. Could
22 the witness please be asked to repeat it.

23 MR. MICHALCZUK:

24 Q. Could you please again repeat the name of the person, the name
25 or the nickname, and also his area of expertise, because it seems

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1 that the interpreter didn't catch it and we have to have a clear
2 record on that.

3 A. From the first one?

4 Q. No, no. From the second person.

5 A. Of course, I understand. [REDACTED] he was
6 called. He taught us how to use long-range weapons, antitank
7 weapons, whatever they are called. You know, this weapon that is
8 quite heavy and stands on two legs. I can't remember its name at
9 this moment.

10 Q. Okay, thank you. I think we have the picture.

11 Was there any other person, apart from [REDACTED]
12 [REDACTED]?

13 A. There were three, and the third one was Commander Bihi. This is
14 what he was called. I can't remember his name, but I know him. He
15 is a member of the police and now I think he is retired. He taught
16 us how to use AK-48 and the Yugoslav-made weapon called 10, with a
17 cartridge from the lower part. It's called M-10 or something like
18 that. So he would teach us how to use these two weapons. The 48,
19 which is a sort of a sniper, and the M-10 weapon. He also would
20 explain to us the various types of hand-grenades.

21 Q. Where did the -- sorry. Please continue if you have something
22 to add, Mr. Witness.

23 A. As I mentioned earlier, [REDACTED]
24 [REDACTED], tactical exercise on the ground, and AK-47. He was, as he
25 told us himself, expert in karate. He had a black belt.

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1 Q. Where, in which place in Zllash did that training that you have
2 just described take place?

3 A. The exercise in Zllash were carried out in the vicinity of those
4 four or five houses which served as their headquarters.

5 Q. Are we talking about those houses in the interior of one of them
6 you spent that time in oda with [REDACTED] and the
7 others?

8 A. Yes, in the vicinity of that house. There were four or five or
9 six houses in total, and in one of them we would have our theory
10 classes. There were like classrooms. Probably that building used to
11 be a school in the past.

12 Q. Were you the only person trained in Zllash at that time or were
13 you being trained in a group together with others?

14 A. In a group with others.

15 Q. Do you recall perhaps how big was that group in which you were
16 being trained?

17 A. The group that I was part of was, as far as I remember, the
18 third generation of persons being trained. I'm not quite sure
19 whether it was the second or the third generation but it was one of
20 them. This group consisted of about 20 or so persons.

21 Q. I forgot to ask you one question about those three trainers that
22 you told the Court about. How were those three trainers dressed when
23 they were conducting the training with all of you?

24 A. In military uniforms, camouflaged green and yellow nuances. And
25 in uniforms, military hat, KLA insignia, weapons, armed.

1 Q. Apart from the group in which you were being trained, were there
2 any other groups of trainees similar to yours which were undergoing
3 similar KLA-organised military training?

4 A. Yes. I noticed another group which was before us, which was
5 about to complete the training when we started, and there was also a
6 group from [REDACTED]. That group had begun the military training at the
7 same time with us but they would hold that training in a different
8 area, not together with my group, but sometimes we would meet on the
9 ground. They were probably staying somewhere near us.

10 Q. [Microphone not activated].

11 THE INTERPRETER: Microphone, please.

12 MR. MICHALCZUK: Excuse me.

13 Q. During that time of your training in Zllash, where were you and
14 the other trainees located? Where did you sleep? Where did you stay
15 during that time?

16 A. It was a sort a school. Each of us had their bed, like military
17 bunk-beds. These beds were in rooms or classrooms. I'm not quite
18 sure, but these rooms looked like classrooms. And the beds were
19 bunk-beds, like one on top of each other. Three beds. I myself was
20 sleeping on the bed on the top, the third one.

21 We had a schedule, a daily schedule, about theory classes,
22 practice, exercises, meals.

23 Q. At some point you mentioned [REDACTED] who was present in that
24 oda, as you told the Court before. What was his position? How did
25 you understand his position there in Zllash?

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1 A. The way how I understood it was that this person had an
2 important role, so I based this impression of mine based on what I
3 had read in the newspapers and I knew that he was a member of the
4 [REDACTED]
5 [REDACTED]. So I'm not very sure
6 whether he belonged to one or the second, but in the moment in time
7 when he mentioned his name, I mean, I made those connections in my
8 mind and I was recalled of the things that I had read about this
9 person.

10 So this is something that I had read in the newspapers and I
11 heard in the news as well.

12 Q. Those two acronyms that you have just used pertain to political
13 parties, political movements; is that correct?

14 A. So they belong to the political movements. That is, the
15 People's Kosovo Movement and the other is the National Movement for
16 the Liberation of Kosovo.

17 Q. I understand. My question was more in relation to the position
18 of [REDACTED] within the Kosovo Liberation Army. And my question
19 is in this regard: Do you know what his position was in the
20 Kosovo Liberation Army?

21 A. In that point in time he was as important as [REDACTED]. At
22 least that was my impression. He was a kind of a commander from what
23 I understood, so he was a commander there.

24 Q. Do you know the relationship, the army relationship, between
25 [REDACTED]? To make it simpler, who was of a

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1 higher position? You said that your understanding was that Fatmir
2 Sopi might be. Could you elaborate a little bit more how did you
3 understand that it was the case.

4 A. I got to understand that from other persons, persons that I was
5 sharing the time with. So from my information, from what I knew,
6 [REDACTED] was the commander of that place, of that point. And then
7 [REDACTED] became the most important person after he joined the
8 place. And the last one was [REDACTED].

9 Q. What was the position of [REDACTED] within the KLA there in
10 Zllash?

11 A. So he came later, he joined later. So he joined after I had
12 this physical exercise. He was the last one. And he had the same
13 rank. He had the same position. He was in charge of that place. He
14 was responsible for the soldiers and he was responsible for the
15 physical exercise, for preparation of the soldiers, for the different
16 attacks and tactics.

17 Q. Do you know what military unit within the Kosovo Liberation Army
18 did [REDACTED] belong to?

19 A. In a unit, so that was the unit of that point, of that place. I
20 mean, it was there where everyone belonged to. So each of them was a
21 supervisor to the rest of the group in different periods of time. So
22 this is how I understood that.

23 It's not that I understood that someone was superior to another,
24 because these three persons were not there at the same time. I tried
25 to explain this a little bit earlier. When only [REDACTED] was

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1 there without [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 were there in three different periods of time.

5 PRESIDING JUDGE VELDT-FOGLIA: Excuse me. Mr. Witness, could
6 you slow down your pace a little bit because I think that you are
7 accelerating a little bit maybe too much at a certain moment. Okay?

8 THE WITNESS: [Interpretation] Thank you very much, Your Honour.
9 I just wanted to explain in general terms because I think that this
10 is important to explain, because the hierarchy is what I already
11 explained to you. And if you want me I can repeat it once again. I
12 don't know whether I was clear or not, but if you see it fit, I can
13 explain to you what the hierarchy was. Or at least the way in how I
14 understood the hierarchy to be.

15 PRESIDING JUDGE VELDT-FOGLIA: You are very clear, Mr. Witness.
16 That was not my point. I just wanted to ask you to slow down the
17 pace a little bit because that will make it more easy for the
18 interpreters to translate for us what you are saying.

19 But for the rest, please proceed.

20 THE WITNESS: [Interpretation] Okay. Thank you. Understood.

21 MR. MICHALCZUK:

22 Q. I have one question that deals with the commencement of your
23 training there. Did you have to go -- undergo any formal
24 registration procedure? For example, did you have to sign any papers
25 at your admission there or in any other place? Do you remember any

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1 formalities that you had to follow when you joined that training?

2 A. I don't remember. But given that they already asked me, I think
3 that they have taken note of what we said, but I don't remember
4 anything, in particular. But normally speaking, I think that they
5 should have taken note of ourselves.

6 Q. How did the training of yours in Zllash --

7 THE INTERPRETER: The interpreter kindly asks the counsel to
8 speak into the microphone, please.

9 MR. MICHALCZUK:

10 Q. How did that training of yours in Zllash end?

11 A. So that ended quite well. There were no problems whatsoever.
12 So they told me that, "The exercise is over with. You have to go
13 home and once are you needed, we will notify you. So once we have
14 weapons, we will let you know. Because as things are right now, we
15 don't have enough weapons."

16 Q. What did you do after the training had ended?

17 A. I went home. I was there for sometime, and it was not possible
18 for us to talk with them over the phone because we didn't have
19 telephones. Therefore, I had to present myself on a number of
20 occasions, two, three times, I had to walk on foot from the village
21 up to the base, I mean, from the place that I was living, to the
22 point, to the place, to ask them on whether they had received weapons
23 and on whether I could join you because I had already finished the
24 physical exercise.

25 Q. After the training, did you go to Zllash once, twice? How many

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1 times did you go to Zllash after that training?

2 A. From what I remember, I went there several times. Three, four
3 times probably.

4 Q. Did anything in particular happen to you during one of those
5 trips from your place to Zllash that relates to this case?

6 A. Yes. Several things have happened there. So one of them was
7 when I was there, a Serbian military helicopter attacked. This
8 helicopter had the Red Cross falsely, you know, just posted there,
9 because they didn't have anything to do with the Red Cross
10 whatsoever. But when this helicopter approached us, they attacked
11 us. They attacked against the soldiers that were having the training
12 in the ground. They did that by machine-gun of an M-84 type.

13 Q. Did that happen in Zllash? My question to that -- relates to
14 that place because you said they shot --

15 A. Yes, yes, it was exactly there.

16 Q. -- the trainees there.

17 PRESIDING JUDGE VELDT-FOGLIA: Please let us not overlap. When
18 the Specialist Prosecutor is talking, please wait with giving your
19 answer, because, if not, the interpreters cannot translate for us.

20 MR. MICHALCZUK:

21 Q. So my question again is: Did that incident happen in Zllash?

22 A. Yes.

23 Q. During that incident, did you have any encounter with any of the
24 commanders whom you mentioned before in your statement today?

25 A. The day that I went there, I was there for one day and this that

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1 I was explaining to you happened in the morning of the next day.
2 [REDACTED] was there as well. When he noticed that there was an
3 attack from the helicopter by the Serbian forces, he gave me a bag
4 which was a closed bag, and he told me that, "You have to keep this.
5 This does not have to fall in the hands of the enemy by any chance."
6 So he told me, "Go and hide it somewhere in someplace and you know
7 what to do with it, but it should not end in the hands of the enemy."

8 I took the bag and I set off for the road, but before I did so,
9 I just wanted to shoot back to the helicopter but I was not allowed.
10 I wanted to take this M-48 weapon, that was a kind of a sniper
11 weapon, and I wanted to shoot back but I was not allowed to. Like I
12 said, I was given this bag and I set off for the road.

13 Q. Do you know what was in that bag?

14 A. No, I did not open it.

15 Q. What happened to that bag later?

16 A. Later, after the attack was over with, he called me. He told
17 me, "Come back and give me the bag back." And this is what I did. I
18 got back and I got him the bag. So that was all.

19 Q. This is clear. So you went to Zllash a few times, as you said,
20 after the training that you had described. Did it ever happen during
21 any of those trips of yours to Zllash that you were arrested?

22 A. Yes, it did. I was arrested. I was detained. This is what
23 they said.

24 MR. MICHALCZUK: Your Honours, I would kindly ask to move into
25 private session for a few questions. Just for a few questions.

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1 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can we go
2 into private session, please.

3 ~~{Private session}~~ [Open session]

4 THE COURT OFFICER: Your Honours, we're in private session.

5 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

6 We are now in private session.

7 Please proceed, Mr. Prosecutor.

8 MR. MICHALCZUK:

9 Q. Mr. Witness, we are in private session now, which simply means
10 that nobody outside this courtroom can hear what you are saying, so
11 I'm going ask you a few questions in relation to that arrest.

12 So could you tell the Court what happened? And I will also ask
13 you some questions for clarification, if necessary.

14 A. Okay. So after two or three times that I have already gone to
15 the place, I, again, set up for going to the same place to ask on
16 whether I could join and for -- I was asking about the issues of
17 getting some armament, some weapon, and also joining the unit. So
18 when I arrived at the village of [REDACTED], there was this point that
19 had -- where everybody had to stop before they passed the point.

20 Q. Was it a check-point?

21 A. Yes, it was, indeed. The road was not paved. It was a road
22 leading to Zllash. But while I went to Zllash the previous two or
23 three times, I never had a problem passing that check-point. Whereas
24 when I went there this time, I was stopped. The guards stopped me.

25 [REDACTED] I don't

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1 recall his name properly, but probably it was [REDACTED] If I
2 see his picture, I would be able to recognise him. I know where he
3 used to work, I know where he works now. I mean, this person was
4 called and he came. He came by a Mercedes-type car of a green
5 colour. It was type 240, if I'm not mistaken. Whereas the number
6 plates were [REDACTED] if I'm not mistaken. I don't know exactly the
7 numbers of the number plate.

8 And this person asked me, "Why is it that you have come to this
9 part of the country, because that's not allowed?" And I told him
10 that this and that is the reason why I am coming here. And he told
11 me to get in the car. So it was only himself in the car, he was
12 driving the car, so I got in the car in the front seat. This person
13 was wearing a military uniform. He had a Kalashnikov-type weapon in
14 the car and he told me that, "Now I'm telling you what will happen."

15 So this person sent me to Zllash. I had no idea that there was
16 a detention centre anywhere there in Zllash. I was not thinking that
17 when I go there, something would happen to me. So I was just
18 thinking probably they would explain something to me. Whereas while
19 we arrived there, I was sent to some sort of a house. There was this
20 person -- one person there and this person was told to receive me.
21 So they stopped me and they controlled me. They asked me to spread
22 my legs and arms. They asked me to get rid of the belts, of the
23 laces, shoelaces, and they took everything that I had with me.

24 So I entered the place and it was like a barn, a place where the
25 animals would stay. They put me inside of this barn and they closed

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1 the door.

2 Q. I would like to ask you a few follow-up questions in relation to
3 what you have just told us, just to have the clear record for the
4 court.

5 So you discussed the issue of this place, check-point in a place
6 called [REDACTED] on the road to Zllash. Who manned that check-point?
7 Who was the check-point controlled by?

8 A. I did not know who was in charge back then. But later on I got
9 to know that it was exactly the person who took me, the person who
10 sent me there.

11 Q. So are you saying that this person [REDACTED] was in charge
12 of that check-point? Is that what you are saying?

13 A. Yes, exactly. So [REDACTED] I don't exactly know
14 his last name, but if I am shown his picture, I can exactly tell you
15 who that person is. I know where he used to work and I know where he
16 works now. It's a question of after the war. I'm telling that I can
17 tell you what he did after the war but also before the war probably
18 or during the war. So ...

19 Q. Do you know what unit did [REDACTED] as
20 you put it, belong to? Talking about KLA unit.

21 A. Listen, so when talk about the unit, probably the units were
22 separated. But I include everything together. Just I'm talking
23 about those units that are under the command of Zllash. When it
24 comes to separating the units, *inter alia*, I mean, the way in how
25 they had separated the units, I don't know anything about that.

1 Later on, I have heard that one soldier had written this book
2 and this soldier had explained and described the way in how the units
3 were organised, and also people that were in charge of the units,
4 they have been described in that book. So later on I got to know who
5 was who, so who was responsible for different units and what did they
6 do. The book is public as we speak. I searched for the book
7 yesterday on Google and I could find a copy of that.

8 So if you would need information about the timing when the units
9 were established, who was in charge of the units, I think that you
10 can refer to that. So if you're talking about Zllash, I mean, that's
11 where I can refer you to.

12 Q. I believe that we know the book you are referring. However, for
13 today, during your statement, I would kindly ask you to limit
14 yourself to your personal knowledge, because this is the reason why
15 you are here, to tell us what you know or what you understand
16 happened. If you simply don't know something, you can tell the Court
17 that you don't know.

18 A. I understand. Up until now, I was answering your questions and
19 I'm telling you what I know. And I also was referring to other
20 sources to tell you that although probably sometimes I don't know the
21 exact name and last name of a person, I can recognise those persons
22 if I'm shown a picture of them. And I told you as well that I know
23 for most of them on where they were working after the war and I have
24 knowledge about them. So this is what I was telling you up until
25 now.

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1 Q. That is very clear. That is very clear. My question about the
2 check-point was: Was it a Kosovo Liberation Army-manned check-point
3 or check-point of -- manned by some other organisations or military
4 formations?

5 A. No, no, it was the same formation.

6 Q. What do you mean by "the same formation"?

7 A. The KLA formation. It was a check-point to see on whether enemy
8 forces were going in that direction. The idea was to make sure that
9 any -- the enemy was noticed and was seen and whether they were going
10 towards Zllash or not. So that was kind of an observation point. I
11 don't know how to explain it otherwise, but this is what it was.

12 So it was as well a stopping point, a hold point. So, for
13 instance, if someone would go towards that direction, they would stop
14 that person and they would ask, "Where are you going to? What's the
15 purpose of coming to this area?" So from that check-point up until
16 Zllash, there are about 10 kilometres, approximately. That's the
17 distance.

18 Q. When [REDACTED] told you to get in the
19 car, did he tell you at that point or during the trip to Zllash the
20 reason why you were being taken there?

21 A. No. He only told me that, "I'm going to send you to that
22 particular place," and that was all. He drove the car. I
23 accompanied him. I didn't know that there was any detention point
24 there.

25 Q. When he told you, "Get in the car," did you feel that you had a

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1 choice not to go with him?

2 A. I could not get in the car, but the thing is that I didn't have
3 any motive or any reason as to why to leave that place. Because I
4 didn't understand that there was a threatening happening there. And
5 even if I got to understand that, I would have not considered that, I
6 think. His tone was official, he was kind of a commanding tone of
7 voice, and, to me, I got that like that was some irregularity on my
8 end. And I had gone to that point, like I told you, several other
9 times and, I mean, I was not afraid of anyone. There was no reason
10 for me not to get on the car with him.

11 Q. And then you reached Zllash and you told the Court already that
12 you were handed over to that person in Zllash; correct? Did I recap
13 it correctly?

14 A. Yes. A guard that was standing in front of a gate of a
15 building, I -- once I entered into that room, I understood that it
16 was a barn. It was a place where the animals would stay normally.
17 And it was there that I saw two other people, when I got inside that
18 room.

19 Q. Just one very short and quick question. You said that the
20 person --

21 THE INTERPRETER: Could the counsel please speak into the
22 microphone.

23 MR. MICHALCZUK:

24 Q. You said that the person who received you there and then put you
25 in that barn, as you called it, he also searched you. Did I

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1 understand correctly? And if I do, what did he take from you, if
2 anything?

3 A. Yes, that's correct. I said that I was searched into. I had a
4 small green-colour notebook. So it was kind of a diary to me. I
5 took note of the training. I had a military knife with me as well.
6 It was kind of a saw shape in the upper part and it was a knife that
7 was donated to me by a friend of mine. [REDACTED]

8 [REDACTED] So these were the two
9 things that they took from me and they never got those things back to
10 me. Whereas others were personal things. I mean, there was this
11 small radio I had with myself. I don't recall any other thing. I
12 don't know. I don't recall that there was basically any other thing
13 that they took from me.

14 Q. That person who received you there in Zllash, how was he
15 dressed?

16 A. He was dressed -- I mean, he had this beret on his head and he
17 was dressed in black clothing. I'm not sure on whether he was
18 holding an emblem of the KLA in his arm or not, though. Usually some
19 of them were wearing emblems and insignia and some others were not
20 because they didn't have enough supplies of this nature.

21 Q. Did you recognise that person?

22 A. No, I did not.

23 Q. Did you understand to which formation within the KLA did that
24 person belong to?

25 A. No. I only understood that he belonged to there because he got

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All redactions applied are pursuant to Orders F493, F509 and CRSPD107

1 orders from [REDACTED] So he got this order from him that I
2 would be placed inside and that's what happened.

3 Q. You mentioned at some point [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 A. Kosovo Specialist Prosecution Office. So he belonged to the
7 Kosovo Specialist Prosecution office after the war. Because at the
8 time he was a member of the KLA. He was a member, a soldier of the
9 KLA of that area.

10 Q. Thank you very much. Understood.

11 And you said that when you entered that barn, you encountered
12 two persons there; is that correct?

13 A. Yes.

14 Q. Who were they?

15 A. I did not know any of them, but during conversations we had --
16 we had some conversations inside during the time that I was staying
17 there at the barn, and I can recall something.

18 Q. From those conversations, did you get their names perhaps?

19 A. No. I do not remember of having heard their names. But about
20 one of them, after the war, so I had his telephone number, the
21 previous numbers that we used to have, and this person had [REDACTED]
22 that had joined the KLA in the village of [REDACTED] at
23 least from what he told me while I was there. I was told by him
24 that, "I am here, I'm being kept here because of me asking them to
25 give my arm back, to give my weapon back. Because I want to

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1 contribute to the KLA but I want to use my weapon." So he had asked
2 for his weapon back and that was the reason why he was kept in the
3 barn.

4 It was a good weapon. This is what he told me. Somebody from
5 Switzerland had brought this weapon to him and they had taken this
6 weapon from him. Whereas the other person, the other person said he
7 didn't know the reason why he was held there.

8 Q. What type of weapons were taken from that person; do you
9 remember?

10 A. An automatic weapon. I don't really remember. So he mentioned
11 the model, he mentioned the type. I don't remember the kind, though.
12 It was probably a weapon from Switzerland or some other country. It
13 was a good quality weapon, but I don't know any further details.
14 According to him. That is what he told me.

15 Q. So you have told us about this first person. You told us that
16 there was another person who didn't know the reason why he was being
17 detained. But did you get to know anything, any more details about
18 that second person? Maybe the place he was from? Maybe what he was
19 doing? Anything like that?

20 A. No. From what I remember, he was from [REDACTED]. But I don't
21 know
22 any other details. I didn't ask him of any other details. So what I
23 remember is that [REDACTED]

23 [REDACTED]

24 Whereas the other person, the other person that was kept there
25 because of asking his weapon back, he was [REDACTED] of

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1 [REDACTED] So if I see
2 this person to this date, I can tell that you he is the person. So,
3 of course, I would know him, because I don't think that he has
4 changed this much for me not to be able to know that he was the same
5 person.

6 Q. Speaking about the person who, as you said, [REDACTED],
7 what was his age, approximately?

8 A. [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] At least

12 that was the impression that I got.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, we are in private
14 session, so at this moment you can mention things because we are, I
15 would say, among ourselves.

16 THE WITNESS: [Interpretation] That's okay. Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I was trying to
18 finds a little moment to tell you that we were approaching 11.00. It
19 is now almost 11.00. So if you could finish this line of question or
20 just keep it for after the break.

21 MR. MICHALCZUK: Your Honours, it's actually a perfect moment to
22 have a break. I was thinking about it myself.

23 PRESIDING JUDGE VELDT-FOGLIA: Very well.

24 Please, Madam Court Officer, could you bring us back into public
25 session.

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1 [Open session]

2 THE COURT OFFICER: Your Honours, we're in public session.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 Madam Court Usher, could you usher the witness out of the
5 courtroom.

6 Mr. Witness, we will be having a break for 30 minutes.

7 THE WITNESS: [Interpretation] That's okay. I understand,
8 Your Honour. Can I remove the headsets?

9 [The witness stands down]

10 PRESIDING JUDGE VELDT-FOGLIA: We will break and have a
11 30-minute break.

12 I adjourn the hearing.

13 --- Recess taken at 11.01 a.m.

14 --- On resuming at 11.30 a.m.

15 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, you have the
16 floor.

17 MR. VON BONE: Yes. Just before the witness comes in, I would
18 like to ask whether -- for me, there is something not clear. Maybe
19 it's better to ask the question in private session, Your Honour.

20 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
21 bring us into private session, please.

22 ~~[Private session]~~ [Open session]

23 THE COURT OFFICER: Your Honours, we're in private session.

24 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

25 MR. VON BONE: Yes, Your Honour. Maybe a matter of

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1 clarification. For me it was not clear. The witness just said in
2 the previous page, [REDACTED]

3 [REDACTED]

4 [REDACTED]"

5 So if the Prosecutor would do me a favour maybe, could we
6 clarify this issue, that is either from the date of that this person
7 is speaking about or that he means as of now. Because [REDACTED]
8 [REDACTED] seems to me as if it is as of today, rather than in that
time.

9 That's why I wanted to have that clarified.

10 MR. MICHALCZUK: Yes, Your Honours. I think the matter is
11 rather clear because we're talking about two different persons. One
12 of them was of that age, [REDACTED], and another one was -- the other
13 person was [REDACTED].

14 So it's a matter of talking about two different persons.

15 MR. VON BONE: Okay. Maybe we have that clear at least when
16 we --

17 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I would say for a
18 matter of clarification, please, in private session, could you re-ask
19 that --

20 MR. MICHALCZUK: I will happily do so, Your Honour.

21 PRESIDING JUDGE VELDT-FOGLIA: Yes.

22 MR. VON BONE: Thank you very much.

23 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
24 bring us back into public session, please.

25 [Open session]

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1 THE COURT OFFICER: Your Honours, we're in public session.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

3 For the record, I see that the SPO is in the same composition as
4 it was before the break.

5 Mr. Prosecutor, can you agree? Yes.

6 And the same goes for the Victims' Counsel's team and for the
7 Defence counsel's team. Okay. Good. That is for the record.

8 Yes, Madam Court Usher, could you please bring the witness in.

9 [The witness takes the stand]

10 PRESIDING JUDGE VELDT-FOGLIA: Please have a seat.

11 Welcome back, Mr. Witness.

12 Mr. Prosecutor, you have the floor again.

13 MR. MICHALCZUK: Thank you very much.

14 THE WITNESS: [Interpretation] Thank you.

15 MR. MICHALCZUK:

16 Q. Mr. Witness, I have one very small matter for clarification.

17 Before the break, and we have it, for the record, on page 39 and
18 40 respectively, we have information about the ages of those two
19 persons kept together with you in that barn.

20 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, were we not in
21 private when we discussed this?

22 MR. MICHALCZUK: We were in private, yes.

23 PRESIDING JUDGE VELDT-FOGLIA: Then I will ask Madam Court
24 Officer to go into private before having the witness answer any
25 questions.

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1 MR. MICHALCZUK: Apologies, Your Honours, because I thought we
2 were in private already. But if this is not the case, let's go into
3 private session.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
5 bring us into private, please.

6 ~~[Private session]~~ [Open session]

7 THE COURT OFFICER: Your Honours, we're in private session.

8 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

9 MR. MICHALCZUK:

10 Q. Mr. Witness, just a matter of clarification. In -- on page 39
11 of the transcript of today's session, it's line 24 and 25, you said
12 the following thing about one of those persons:

13 "The other person that was kept there because of asking his
14 weapon back, he was about [REDACTED]."

15 Was your evidence or is your evidence that he was, at that time,
16 [REDACTED]?

17 A. Yes, I think so. At that time is what I meant.

18 Q. This is clear. And then on page number 40, there is a line --
19 this is from line 7 to 11, you said the following thing:

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] At least

24 that was the impression that I got."

25 And my question is: Were you, while saying that, were you

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1 referring to that second person or that first person, [REDACTED]

2 [REDACTED]?

3 A. To the second person. That answer goes to the second person,
4 not to the first one.

5 Q. This is perfectly clear. Thank you very much.

6 MR. MICHALCZUK: Your Honours, I'll try to ask a number of
7 following questions in the open session. So if I could ask to go
8 back into open session, I would be grateful.

9 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
10 bring us back into open session, please.

11 [Open session]

12 THE COURT OFFICER: Your Honours, we're in public session.

13 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, please proceed.

14 MR. MICHALCZUK:

15 Q. Before the break, in the private session, you told us about two
16 persons held together with you in the barn. Do you know how long had
17 these two persons been kept there before you were placed in that
18 barn?

19 A. No. But from what I remember, they said that they were brought
20 three or four days before me. This is what I remember them saying.

21 Q. Do you remember whether they were brought together to that barn
22 or separately?

23 A. I don't know. I don't remember that.

24 Q. Did any of those two persons tell you anything about them being
25 mistreated there in Zllash?

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1 A. Not when I arrived there. Only after I went there, when they
2 started to interrogate us, then they told me. When I arrived, I did
3 not get any information from them about them being mistreated, up
4 until the moment when they started to take us for interrogation, as
5 they called it, to question us.

6 Q. So we'll talk about you a bit later. Let's focus for now on
7 those two persons. You mentioned that they were interrogated. Could
8 you tell us what you know about those interrogations?

9 A. Yes, I can tell you what I know. When the interrogations
10 started, all of us were taken for interrogation one by one. We were
11 taken from the location where we were staying to another location.
12 They would cover our faces when they would take us away. When we
13 would arrive to the location of the interrogation, they would remove
14 the cover from our faces and then they could -- we could see that we
15 were in another location. But this other location was somewhere
16 nearby the place where we were kept. They were either attached to
17 each other, these two locations, or something like that. But based
18 on how long it took us to walk or get there, it wasn't very far. And
19 interrogations would take place in the evening, late in the evening.
20 This is what I remember because there was a light. A bulb was on
21 when we would be interrogated. That I remember.

22 Q. If I may, a few follow-up questions on those interrogations of
23 those two persons. So let's now not focus on you. Let's focus first
24 on them.

25 How many times were they taken for such interrogations, those

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1 two persons?

2 A. During my stay there, I know that they were taken at least once
3 for interrogation.

4 Q. Did they tell you what happened to them during those
5 interrogations?

6 A. They would talk between each other because I never asked them
7 what happened to them. But they would talk to each other about being
8 beaten, not heavily beaten, but according to them, they were slapped
9 on their faces. This is what they talked about, what happened to
10 them, that they were being slapped on their faces.

11 Q. Did they mention how many times they were slapped on their faces
12 when they were being interrogated?

13 A. I did not ask about that, but I'm telling you what I remember
14 hearing them say. I did not ask them how many times, but those two
15 that were there with me talked about what I'm telling you now and
16 what I remember.

17 Q. Do you remember at least whether they were slapped once or more
18 than once, at least this thing?

19 A. More than once, of course. I mean, when you say "slapped on the
20 face," it's in plural, meaning that did not say, "They slapped me
21 once." This is why I'm saying that they were probably slapped more
22 than once. Several times.

23 Q. In relation to them, you said that they were taken for
24 interrogations. Did they tell you after they had come back, did they
25 tell you what their interrogations were about?

1 A. No, I didn't ask them. I wasn't interested in that. I did not
2 ask them why.

3 Q. Did they talk between themselves about what questions were asked
4 during those interrogations?

5 A. No, I didn't hear them talk about that. I know that the person
6 who was older amongst the three of us, he said because of the weapon
7 that they took from him and that he asked to be given back. So they
8 had taken the weapon from him, did not return to him, and when he
9 wanted to join, they refused to have him as a member. I also
10 remember that the older one said something like, "If [REDACTED] who are
11 soldiers of the KLA in [REDACTED] know about this, they would
12 taken care of this."

13 This is what I remember.

14 But he said that he did not tell them about his sons.

15 Q. You said a few minutes ago that the place where you were taken
16 to be interrogated was not far away from the barn; is that correct?

17 A. Yes. Not far. That's correct.

18 Q. When those two men kept together with you in that barn were
19 taken for interrogations, did you hear anything of those
20 interrogations or of what was happening to them while they were being
21 interrogated?

22 A. No, I didn't hear about that.

23 Q. Did you hear anything while they were outside that made you
24 believe that they were being mistreated?

25 A. I paid attention to be able to hear whether they were being

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1 beaten, but I couldn't hear any sound. Except when they brought the
2 person [REDACTED] there.

3 MR. MICHALCZUK: Your Honours, could we go into private session
4 very briefly.

5 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
6 bring us into private session.

7 ~~[Private session]~~ [Open session]

8 THE COURT OFFICER: Your Honours, we're in private session.

9 MR. MICHALCZUK: Your Honours, the reason for that is obvious.
10 The name that should not have been mentioned has just been mentioned.

11 Q. Mr. Witness, we should not mention in the open session any names
12 that could reveal certain aspects --

13 A. [No interpretation].

14 Q. -- of this case. One of them, one of them is [REDACTED]

15 And I will be later on asking you some questions in relation to that
16 person. Some of them in private session, but some of them later I
17 will try to ask in open session. And when in open session, let's try
18 not to use his name. I will not use his name for sure, but you also
19 try not to say his name out loud.

20 A. I apologise. When time is passing by, I kind of not notice what
21 I mention.

22 Q. It's not a problem.

23 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, it has been -- it
24 will be redacted from the transcript of the proceedings and from the
25 broadcast. Just pay attention. We are all doing our utmost and we

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1 understand that sometimes it is difficult to realise.

2 Please proceed, Mr. Prosecutor.

3 MR. MICHALCZUK:

4 Q. Just a question about those two persons being mistreated still.

5 You said that at some point they were taken, they were interrogated,
6 and they told you that they had been slapped. Did that happen on the
7 same day you were brought to that barn or sometime later?

8 A. On the same day.

9 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, excuse me.

10 Mr. Prosecutor, we are in private. Is that your intention?

11 MR. MICHALCZUK: [Microphone not activated]. We don't have to be
12 in private. For a moment, we can go back into open session.

13 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

14 Madam Court Officer, could you bring us back into public
15 session, please.

16 [Open session]

17 THE COURT OFFICER: Your Honours, we're in public session.

18 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, please proceed
19 and please re-ask the question.

20 MR. MICHALCZUK: Of course, Your Honours.

21 Q. Speaking about those two persons who were held together with you
22 in that barn in Zllash, did that interrogation and mistreatment they
23 told you about happen on the same day when you were brought to Zllash
24 or on another day?

25 A. Yes, I remember that that occurred on the same night.

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1 Q. Did they tell you whether they recognised those who were
2 interrogating them and who slapped them, as they said?

3 A. No, I don't remember them saying anything else.

4 Q. Could you describe that barn to the Court. Any detail you
5 remember.

6 A. It was sort of a room, big in size, something like a stable.
7 There was something like a trough, a feed trough for animals in
8 there. It was made of wood. The walls were made of wood and earth,
9 mud. And there were openings here and there. And from there, you
10 could see a bit outside.

11 Q. By the openings, do you mean the cracks in those wooden walls or
12 do you mean something else by saying those "openings"?

13 A. Yes, yes.

14 Q. So the cracks in the wooden walls?

15 A. The walls were built of wood, hay and mud. This is what they
16 were made of.

17 Q. Do you remember whether that place had a window?

18 A. I remember that it was always dark. I think there was a window,
19 but it was closed so that the light could not come in.

20 Q. You said that those persons were removed for interrogations. Do
21 you know those persons who came to the barn to remove them for those
22 interrogations? Do you know those persons?

23 A. No.

24 Q. How were those persons who removed those two from the barn
25 dressed?

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1 A. Some of them had military trousers and in the upper part they
2 were wearing something black. But most of the time they had their
3 shirts with the sleeves wrapped up, and some of them also had
4 T-shirts.

5 I know that those who interrogated me you were younger than me.
6 This is what I remember. Whereas those around them were of my age,
7 approximately. They were kind of guards.

8 Q. We will come back to that in a minute.

9 MR. MICHALCZUK: Your Honours, could we now move back into
10 private session.

11 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
12 bring us into private session, please.

13 ~~{Private session}~~ [Open session]

14 THE COURT OFFICER: Your Honours, we're in private session.

15 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

16 Mr. Prosecutor, please proceed.

17 MR. MICHALCZUK:

18 Q. Did your captors, the KLA soldiers, bring at any point anyone
19 else to the barn -- to that barn where you were kept?

20 A. I don't remember.

21 Q. At some point a few minutes ago, you mentioned the name of
22 [REDACTED] in the context of your stay in Zllash.

23 A. Yes.

24 Q. Is that correct?

25 A. That's correct.

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1 Q. Could you tell the Court about [REDACTED] there in Zllash.

2 A. Yes. At a certain moment, they brought him where we were

3 staying. [REDACTED]

4 [REDACTED] He was black

5 from the beatings. Everything on his face, his eyes, nose,

6 everything was black. And he was swollen. But he could stand on his

7 feet and he could speak a bit. He, however, could not open his eyes.

8 He could just open them slightly. As I said, they were all black.

9 And I'm talking about the first time they brought him there.

10 MR. MICHALCZUK: Your Honours, with a certain degree of caution,

11 we could move back into public session, but I would advise the

12 witness not to mention his name or anything that could identify

13 [REDACTED] to the public.

14 PRESIDING JUDGE VELDT-FOGLIA: Yes. We can do that. But allow

15 me, Mr. Prosecutor, to ask one clarifying question with regard to the

16 word "black."

17 Mr. Witness, when you say the word "black," what do you mean

18 with that? Do you mean bruises?

19 THE WITNESS: [Interpretation] Injuries, bruises that become

20 black.

21 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good. Thank you.

22 I will ask now Madam Court Officer to bring us into public

23 session, so please, as Mr. Prosecutor has said, be cautious and don't

24 mention the name of the person we have been talking about. Okay?

25 Madam Court Officer, could you please bring us back into public

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1 session.

2 [Open session]

3 THE COURT OFFICER: Your Honours, we're back in public session.

4 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

5 Please, Mr. Prosecutor.

6 MR. MICHALCZUK: Your Honours, maybe for the benefit of the

7 public, I could repeat the last lines of the witness.

8 Q. So, Mr. Witness, at some point in the private session you said
9 that at some point a person was brought to the barn in which you were
10 kept yourself with those two other persons. And you said, describing
11 him, [REDACTED] You also said that he was black from
12 the beatings.

13 "Everything on his face, his eyes, nose, everything was black.
14 And he was swollen. But he could stand on his feet and he could
15 speak a bit. He, however, could not open his eyes. He could just
16 open them slightly. As I said, they were all black."

17 Is that what you said in the private session?

18 A. Yes, it's very clear. And he was swollen on his face, on his
19 eyes, everywhere. He was swollen more than normally.

20 Q. Did you see any blood on his body?

21 A. No.

22 Q. Did you see any visible injuries on his body? You mentioned the
23 swellings. Anything apart from that?

24 A. I already described them. I described them earlier. He was
25 bruised, black, on all visible parts of his body.

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1 Q. Mr. Witness, you said also in the private session that it was
2 the first time he was brought to that barn. Do I understand
3 correctly that he was brought to the barn on another occasion, or
4 occasions?

5 A. Yes. He was brought once more and we did not see him after
6 that. When he was brought the second time, he was almost dead. He
7 was lying down, crying out of pain. He was even more swollen. His
8 nose was bleeding. So, in other words, he was unable to speak. He
9 was just crying out of pain. This happened on the second time.

10 In order to explain it to you, we heard him when they brought
11 him the first time. Then they brought him outside. I don't know if
12 they brought him outside the first or the second time, but when they
13 brought him the second time, they took him outside. They were --
14 they beat him heavily then, and we could see from the openings that
15 he was being beaten by five or six persons. And these persons would
16 hit him with everything they had in their hands. And once the
17 beating ended, they brought him in the place where we were.

18 And when they brought him the first and the second time to the
19 place where we were staying, they would order us to say, "Death to
20 the traitors, death to the thieves, death to the thugs, and glory to
21 the Kosovo Liberation Army."

22 This would happen whenever they brought him in. This was what
23 the three of us had to say and shout whenever they would bring him.

24 Q. Did the beating of that person happen inside of the barn or
25 outside of the barn? Just to have it clear.

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1 A. No, no. It happened outside of the barn. Outside. Whereas
2 inside, he was never beaten inside.

3 Q. If it happened outside of the barn, as you said, how did you
4 manage to see what was happening with him? You said he was beaten by
5 several persons. How did you see that?

6 A. I could hear. While he was being beaten, I would hear his
7 shouts and, at the same time, I could see the movements of those
8 persons from the cracks of the barn. So it's not that I was very
9 near to them, but I could see from the cracks. There was a certain
10 level of light where you could see what people were doing and where
11 you could figure out how many people were there. Like I said, it was
12 more than five persons because he was well-built, [REDACTED]
13 [REDACTED], and probably they were afraid of him although [REDACTED]
14 [REDACTED]

15 [REDACTED]

16 And he was afraid. Because, like I said, he was well-built, and I
17 [REDACTED]
18 [REDACTED]

19 MR. MICHALCZUK: Your Honours, could we move back into closed
20 session for a very brief moment.

21 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
22 bring us into private.

23 ~~[Private session]~~ [Open session]

24 THE COURT OFFICER: Your Honours, we're in private session.

25 MR. MICHALCZUK: Your Honours, I have called for going into

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1 private for obvious reasons, and I understand this question and
2 answer would be redacted. So I would like to pose this question
3 using this opportunity.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A. Yes.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. Mm-hm. Could you tell the Court, if you know --

14 THE INTERPRETER: Could the counsel speak into the microphone,
15 please.

16 MR. MICHALCZUK: Excuse me.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 Do I understand it correctly?

4 A. Yes, [REDACTED]

5 [REDACTED]

6 MR. MICHALCZUK: Your Honours, we can go back into open session
7 again.

8 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
9 bring us into public session, please.

10 [Open session]

11 THE COURT OFFICER: Your Honours, we're in public session.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

13 Mr. Prosecutor, you may proceed.

14 MR. MICHALCZUK: Thank you.

15 Q. You told us before we went into private session that several
16 people were beating that victim, that person, [REDACTED] How
17 were those persons dressed?

18 A. Some of them were partially wearing a uniform, and most of them
19 were wearing civilian clothing, black clothing, without any insignia.

20 Q. Were they armed?

21 A. I did not see that.

22 Q. There was the moment that those persons brought that victim into
23 the barn, inside of the barn. Did you see then how they were dressed
24 or whether they were armed or not?

25 A. No. I said they were wearing black clothing, they had black

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1 trousers.

2 Q. And were they armed?

3 A. I do not know. I didn't see a thing. He was in such a
4 situation that they had to hold him, all the weight of his body, and
5 they placed him lying on the ground because he cannot stand on his
6 feet.

7 Q. Do you know perhaps the reason why the KLA soldiers brought that
8 victim to the barn for you and your co-detainees to see?

9 A. The way how I see it is that it was not something that they had
10 thought in advance. But the way in how I got it was that we were at
11 risk because we could, as well, be in the same shoes that this person
12 was. Whereas when it comes as to why they brought the person there,
13 they would say that [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED] So this what I heard. This is what they said.

18 Q. Was that victim a Serb collaborator?

19 A. I do not know. I don't know that he was a collaborator.

20 However, I can give an opinion of mine about this matter. Later
21 on, a person that I saw was the same in terms of appearance and
22 height, I found out that he was some [REDACTED]

23 [REDACTED] so I tried to see on whether there was any criminal history
or

24 criminal thing of this person. This was a [REDACTED] person. He was
25 about [REDACTED], so he was very

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1 fit. And this person was the one that was mostly beating this
2 person. So -- and I would identify that by the height of this
3 person.

4 So it is very important to know who that person is, or was, and
5 on whether he had anything else related to this person. So it's
6 important to discover his past, to know on what his past history was.

7 Q. And that person you have just told us about, how was he dressed
8 or -- do you remember anything about that person?

9 A. He was dressed -- he was wearing civilian clothing. I think his
10 trousers were black and -- yeah, civilian clothing, like I said.

11 Q. How --

12 A. About his appearance, so that appearance was clear in my head up
13 until recently. I don't know whether this person has changed his
14 appearance because it is 20-odd years past that events. However, I
15 think that the investigations need to be carried out as to where this
16 person is, who this person is, and I believe that it would be good
17 for the authorities to uncover a little bit more about this person.
18 Because from what I recall, I mean, one of his legs was injured.
19 So -- I mean, I had this issue, this problem with one of his legs.
20 It was not very visible, but, yeah, he had this problem.

21 This is what I recall about this person.

22 Q. How much time passed between the first and the second time when
23 that [Microphone not activated]?

24 THE INTERPRETER: Microphone, please.

25 MR. MICHALCZUK:

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1 Q. How many time passed between the first and the second time when
2 that badly mistreated victim was brought to your barn?

3 A. I do not exactly remember, but I think that he stood with us, he
4 remained with us for one night. Whereas the next day when he was
5 beaten up, he was brought again in the barn, but then they took him
6 away probably in the evening of the same night or the next day, but
7 he never was returned to the barn again.

8 Q. Do I understand correctly from what you have just said that that
9 badly beaten person, that badly beaten victim, stayed with you just
10 for that brief period of time, for that one night, and he was kept
11 somewhere else, not in the barn together with you? Is that what you
12 said?

13 A. The first time when he was brought inside of the barn, I said
14 that he remained with us. So he was taken in the evening or the next
15 day to be beaten up. That was the first thing that happened. And
16 when he was taken the second time, again he was brought in where we
17 were staying. I don't know on whether he was staying there for some
18 part of the day or of the night or on whether he was taken the next
19 day, but -- so this is what has happened within one night. So he was
20 either taken the second night or the next day, and we never saw him
21 again.

22 That's the answer I can provide to you based on what I recall.

23 So that's not something that I have heard others say, but this
24 is something that I have seen with my own eyes.

25 Q. You saw that person, that victim badly beaten and who looked the

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1 way you described. What effect did his look, the way he looked have
2 on you and to other co-detainees?

3 A. The effect it had on to us was that we were at a critical
4 situation for ourselves and that we could have the same chance as he.
5 This is how I understood the situation to be.

6 Q. Did you have fear when that person was shown to you by those KLA
7 soldiers yourself?

8 A. Of course. We didn't have weapons there, we were afraid, and we
9 didn't know the reason as to why we were being kept there. So all
10 the other reasons that they mentioned were illogical to us.

11 Q. You said that that badly mistreated victim had [REDACTED]
12 Did you or those two other persons kept with you in that barn also
13 [REDACTED]

14 A. No, never. This was not the case for us. [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Also, they were armed. And when we had to go to the toilet -
22 and I'm talking about myself because we were not sent to the toilet
23 all together, we were sent one by one - so in my case I had this
24 person that was standing behind me having a revolver, an arm. He was
25 just with a distance of 1 metre away from me and the revolver was

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1 directed at me up until I got into the toilet, because the toilet
2 itself was located outside of the place where we were. So you had to
3 tell them that, "I have to go to the toilet." This person would
4 accompany us. We would walk for 15 or 20 metres and, like I said,
5 the toilet itself was separate from the building.

6 I [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] So that is something that I knew later on,
10 of course.

11 Q. And that person who was escorting you to that toilet outside,
12 how was he dressed; do you remember?

13 A. This person that would accompany me, he was partially wearing
14 military uniforms and the remainder of the clothing was civilian
15 clothing. So a part of it was in black, a part of the clothing was
16 in black, whereas the remainder was civilian. So times the trousers
17 were military black trousers, sometimes they were not military
18 trousers. This is what I remember.

19 [REDACTED]

20 [REDACTED] --

21 PRESIDING JUDGE VELDT-FOGLIA: Excuse me. We are in public.

22 MR. MICHALCZUK: [Microphone not activated].

23 PRESIDING JUDGE VELDT-FOGLIA: And, Mr. Witness, I would remind
24 you not to give any details that can lead to identification of
25 yourself.

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1 THE WITNESS: [Interpretation] Apologies for that. I forgot
2 about it. Apologies, Your Honour. I am to be blamed for that.

3 PRESIDING JUDGE VELDT-FOGLIA: No, you don't have to apologise.
4 I had to interrupt you.

5 THE WITNESS: [Interpretation] So sometimes I feel myself lost in
6 the memories and I forget about not mentioning certain people or
7 certain places.

8 PRESIDING JUDGE VELDT-FOGLIA: We completely understand that.
9 Mr. Prosecutor, please proceed.

10 MR. MICHALCZUK:

11 Q. So we are still in the open session. Were you yourself
12 mistreated during your detention in Zllash?

13 A. Yes.

14 Q. Could you tell the Court how it happened.

15 A. Yes. I was taken in an evening. I don't remember on whether my
16 eyes were closed or not, but I remember that when we entered the
17 place, I mean, this blindfold was removed from me. The hands were
18 not tied, but I was accompanied by two persons, and there were two
19 other persons that were standing by their sides. So they asked me to
20 get undressed in the upper part of the body and they would ask me,
21 "Why is it that you have taken notes in the notepad that you had with
22 you?" And I told them that this is a kind of a diary. This is
23 something that I have taken note of by making use of a pen. So the
24 idea for that was that if you write with a pen, I mean, in the case
25 of risk, I mean, if you put some water on the notes, the notes would

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1 go blank. And I told them that nobody told us that it's not
2 permitted for us to take the diary with us. And I was told, "No,
3 you're not telling the truth. You're a spy. You're spying." And I
4 would say, "No, I'm not spying, but if you've got any documents, any
5 evidence to that end, you have to tell us."

6 They told me to bend down. Do you want me to show how exactly
7 they told me to behave?

8 So I was standing and they asked me to bend, and this is how I
9 stood. Like I said, I wasn't wearing any clothes in the upper part
10 of the body and I was hit in the shoulder, so from this part up here
11 up until here. So I was hit by a rubber stick and that was kind of a
12 stick that was -- a baton that was used by the militia, by the
13 Serbian military forces. That was not a metal rod but that's, like
14 I said, a police rubber stick.

15 Q. Do you remember how --

16 A. It was a baton.

17 PRESIDING JUDGE VELDT-FOGLIA: Excuse me.

18 MR. MICHALCZUK:

19 Q. Do you remember how many times you were hit --

20 PRESIDING JUDGE VELDT-FOGLIA: Excuse me, Mr. Prosecutor. I
21 want to add to what the witness just said in order to make it clear
22 for the record what we were seeing.

23 What we were seeing is that the witness was bending over and
24 that he was having his hands on his shoulder and that he was pointing
25 to the upper part of his shoulders and the back of his shoulders

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1 where he said he was hit.

2 Is that an accurate description of what we saw?

3 MR. MICHALCZUK: It is, Your Honour. I believe it is.

4 PRESIDING JUDGE VELDT-FOGLIA: Okay. If I don't hear anything
5 else. That's for the record. Thank you. Please proceed.

6 MR. MICHALCZUK:

7 Q. Let me come back to my question. Do you remember how many times
8 you were hit with that --

9 THE INTERPRETER: Can you please talk into the microphone.

10 MR. MICHALCZUK:

11 Q. -- as you said, rubber baton?

12 A. Only that night.

13 Q. My question did not relate to how many times you were beaten
14 while in Zllash. My question related to how many times were you hit
15 in your back with that baton. If you remember, of course.

16 A. About ten to 12 times. Even more than that.

17 Q. When you were there in that place, did you see whether there was
18 anybody visibly in command of that whole situation? For example,
19 somebody giving somebody else's -- any orders, any directions or
20 anything to that effect that made you believe that there was somebody
21 there who was in command of that situation, in charge of that
22 situation?

23 A. No, did I not notice anything that. Probably there was somebody
24 surrounding us that had that quality, but I did not notice anything
25 like that.

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1 So there were these two persons that would question me. They
2 were younger than myself back then. There were about 17 or 18 years
3 of age. And there were two other older persons that were standing
4 close to these young men. So they were kind of on readiness. So if
5 the need was there for them to intervene, I mean, they would
6 intervene. That was my impression. So these were the four persons
7 that were standing around me.

8 I don't know about other people. Probably there was -- there
9 were other people. However, later on, once I analysed the things, I
10 think that they did not plan for me to be beaten up. I think that
11 this was related to our political bias, to our political convictions,
12 to military convictions as well. And that is something that has
13 happened to other people as well. I think that's the reason to that.
14 It's not that we were spies, because that had nothing to do with us
15 being spies.

16 So that is something that I have been thinking of later on.
17 It's not that I thought, you know, about this at the time that I was
18 there. I did not think that they would do what they did, but that is
19 something that I have been thinking of later on.

20 Q. You mentioned that the reason for your beating and that
21 interrogation was the political conviction. Is that what you said;
22 and, if so, could you tell us more about it?

23 A. This is something that I have discovered later on. Because we
24 were not those sorts of persons. None of us.

25 I'm talking about the three people, the three of us who were

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1 there. This was directly related to our approach because they knew
2 that I trusted one political party and that political party, you
3 know, was a party to which they were in opposition. And different
4 things have happened to different people over time because of their
5 convictions. There were attempts, failed attempts as well. There
6 were attempts against President Rugova himself. He had two life
7 attempts. So -- and he escaped. I mean, he remained to survive
8 those attempts. And there have been attempts against people that
9 were MPs and that are now in -- I mean, incapable. I mean, they are
10 physically disabled because of those attempts. And I believe that
11 this was the major cause of us being there, because of our political
12 convictions being different from their convictions. At least this is
13 what I think of that situation.

14 Q. Just to make it clear: How did they know, those persons who
15 were interrogating and mistreating you, how did they know that you
16 had those political convictions which were not aligned with their
17 political convictions? How did they know that? What do you think?

18 A. Well, I think so. On whether they knew or not, I do not know
19 that. But that's my opinion. Later on, I have thought that the
20 reason for me being there being what I told you. Whereas on whether
21 they knew of where we stood in terms of the political bias, I mean, I
22 think you have to ask them. You can discover that for yourself and
23 you can see on whether that's really what the situation was or not.

24 However, it's public knowledge, at least from what I read from
25 the newspapers. I'm not talking about what I have known myself, but,

1 for instance, I have read in the newspapers that [REDACTED] was one
2 of the suspects of one of these attacks and he was released because
3 of the lack of facts. I have read this in a newspaper. It is not
4 something that I've invented. That is not an opinion of mine. You
5 can see it with your own eyes. If you search with his name in
6 Google, you would see, you know, what their past is and you would see
7 what they have done, for each of them.

8 Q. Do you think that the fact that you mentioned during that
9 meeting in the oda that the head of the KLA is Ibrahim Rugova, do you
10 think that it had any influence on the fact that they later on
11 interrogated you and mistreated you?

12 A. Of course. I think so, very much so.

13 Not the commander of the KLA but he was the commander of all the
14 armed forces of the Republic of Kosovo for as long as he was alive.
15 And that was not just a way of saying it, but he was the leader, the
16 commander under the constitutional framework.

17 Q. Let's go back to those persons who were asking all those
18 questions and who were mistreating you.

19 Did they call each other by any names or by any ranks or in any
20 way that could identify them?

21 A. No, they never discussed these issues amongst themselves when
22 they would interrogate us.

23 Q. Just to clarify it for the record, you did not recognise those
24 persons who were interrogating you and mistreating you; is that
25 correct?

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1 A. Correct. Yes, I did not know them.

2 Q. You said that such thing, interrogation of yours and beating of
3 yours, happened only on that one occasion; is that correct?

4 A. Correct.

5 Q. How many days after you had been brought to that barn in Zllash
6 did that interrogation and beating of yours take place?

7 A. It happened once, as I said, while I stayed there more than
8 three or four days, about a week. I don't know exactly, but I know
9 that I stayed there for at least four days, up to a week. Seven
10 days, a week, ten days, I don't know exactly. But I'm telling you
11 the minimum and maximum length of time that we stayed there -- I
12 personally stayed there, because I'm speaking about myself.

13 Q. Thank you very much for this clarification when it comes to the
14 time-span when you were there. My question, however, stands. And my
15 question is: On which day out of those four to seven days were you
16 taken, interrogated and mistreated in the way that you described? On
17 which day was it?

18 A. It was on the third day, I think. I think it was on the second
19 or third day, something like that. Somewhere in the middle of the
20 maximum length of time. As I said, it's a bit of a problem for me to
21 state the correct length of time, but it was somewhere in the middle
22 of the time spent in there.

23 Q. How much time did that whole interrogation and beating last? If
24 you remember, of course. How much time did it last?

25 A. Well, I think for about half an hour or so. 20 minutes to half

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1 an hour, not more than that.

2 Q. So 20 minutes to half an hour in total, interrogation and the
3 beating that you received; correct?

4 A. Yes, correct.

5 Q. How did that interrogation and beating of yours end? How did it
6 end?

7 A. After the beating, he told me, "Put your clothes on." And then
8 they brought me back to that place where I was staying. And then two
9 or three days later, they told me, "You are free to go home."

10 Before me, they released another person. The one that I
11 mentioned earlier, the tall one. And after me, the older person
12 remained. I don't know when they released him.

13 Q. Just coming back to the moment you were being interrogated and
14 beaten. You told us, if I remember correctly, that there were two
15 persons asking you questions; is that correct?

16 A. Correct. There were two persons, then two on the sides, and at
17 one point two females came. They did not ask questions. They just
18 stood there near them.

19 Q. So those two persons who were asking you questions, who were
20 those who were beating you? The same persons who were asking you
21 questions? Other persons?

22 A. The same persons.

23 Q. The same two persons who were asking you questions were also
24 beating you. Is that what you are saying?

25 A. Yes, correct.

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1 Q. Did you at any point of that beating that you received lose
2 consciousness?

3 A. Never.

4 Q. Did that beating of yours and that interrogation of yours happen
5 before or after the interrogations of the other two co-detainees of
6 yours?

7 A. After.

8 Q. Did that victim whom you described as being badly beaten, who
9 looked that miserably, was he brought to your barn before or after
10 the mistreatment of yours?

11 A. He was brought before.

12 Q. From the moment you came back to your barn after being
13 mistreated till the moment you were released a few days later, did
14 anything else of a violent nature happen to you or to any of those
15 two co-detainees of yours?

16 A. No, I don't remember anything like that happening.

17 Q. Are you aware of any other people kept in Zllash by the
18 Kosovo Liberation Army within the same compound during the time when
19 you were also kept there?

20 A. No. I was not aware that there was a detention centre there
21 until I was brought there myself. In other words, I had not heard
22 before from somebody about that. Maybe there were others, but I
23 don't know.

24 Q. A few minutes ago, you told us that at some point you were
25 released. Could you tell the Court the circumstances of your

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1 release.

2 A. Well, the circumstances are like follows: A person opened the
3 door who said, "You are free. Follow us." They returned my personal
4 items, but they kept the notebook and the knife. The notebook, the
5 small one that -- where I kept my notes, like a diary or something.
6 And then I set off on foot for -- to go home. I passed through
7 mountains and got home. And later on, I returned there again but
8 that was a different sort of return. I was armed then and I was with
9 many others. We would distribute supplies for the army. This is
10 when I went there for the last time, after NATO bombing had started.

11 I would distribute medicaments from the health centre. The Serb
12 forces had burned the health centre. We extinguished the fire. We
13 took every medicine that had remained and took that to Zllash. A

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 We administered aid, medical help to him. There was a doctor there.
20 I had no problems. I had my weapons and that weapon was left in my
21 house, and this person who left the weapon, we know that person, who
22 he was by name and last name.

23 So when I returned for the last time there, [REDACTED] was the
24 commander. So I'm speaking about the last time when I had no
25 problems at all. So this was it.

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1 Q. [Microphone not activated].

2 MR. MICHALCZUK: Maybe we could go into private session very
3 briefly.

4 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
5 bring us into private session, please.

6 ~~[Private session]~~ [Open session]

7 THE COURT OFFICER: Your Honours, we're in private session.

8 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.
9 Mr. Prosecutor.

10 MR. MICHALCZUK: Your Honours, the only reason we have gone into
11 private session is the reference to the place called [REDACTED] That
12 could be identifying to those who know the area, who know the people
13 who live there. Maybe that small incident that [REDACTED]
14 [REDACTED] is or was known to the people who could be
15 interested in that. So to protect the witness, let's do it.

16 PRESIDING JUDGE VELDT-FOGLIA: I already sent a message --

17 MR. MICHALCZUK: Yes, of course, Your Honours.

18 PRESIDING JUDGE VELDT-FOGLIA: -- to ask while -- before you
19 stood up, so, yes. But thank you for pointing it out.

20 MR. MICHALCZUK: Your Honours, thank you so much.

21 PRESIDING JUDGE VELDT-FOGLIA: I see also Victims' Counsel.
22 Please.

23 MS. PUES: Yes. Thank you, Your Honours.

24 The redaction should also include [REDACTED] the whole
25 passage which starts there which starts at the end of page 72 of the

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1 [REDACTED] as they

2 all link together.

3 PRESIDING JUDGE VELDT-FOGLIA: We will take care of it. I will
4 have a look at the redaction order and then I will decide what we
5 will include, but we will try to keep out everything that will be a
6 possibility to identify for the witness.

7 But thank you for your remark.

8 MS. PUES: I'm sorry, just one more thing that is not related to
9 the redactions as such, but just while we are having this little
10 interruption which I didn't want to do earlier.

11 Could I just revisit the little passage for the record when you
12 described how the witness stood bending forward, where my co-counsel
13 quite rightly pointed out to me that he at first was holding his
14 hands sort of towards the bottom of the back before he then used one
15 hand to sort of point towards the shoulder which I think might be
16 relevant as it is sort of a more forced way of standing, which is
17 just one little bit of description missing in what we have already on
18 the record. If that could be completed, that would be very good.

19 As I said, I didn't want to interrupt the examination of the
20 Prosecution earlier. Therefore, this is the first moment at which
21 this seems suitable. Thank you.

22 PRESIDING JUDGE VELDT-FOGLIA: What I will do, Victims' Counsel,
23 is in the break have a look at it, yes, to see if it's complete, and
24 if it is necessary, I will come back to it, because I remember having
25 made the remark that the hands were on the back tied together. So I

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1 will just look if we have to add to it at the bottom, and if it is
2 necessary, I will come back.

3 Thank you.

4 Mr. Prosecutor, please proceed. And do you want us to stay in
5 private or can I ask to go back into public?

6 MR. MICHALCZUK: Your Honours, I would kindly ask to move back
7 into the open session.

8 PRESIDING JUDGE VELDT-FOGLIA: Okay. Good.

9 Madam Court Officer, can we go back into public, please.

10 [Open session]

11 THE COURT OFFICER: Your Honours, we're in public session.

12 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

13 Mr. Prosecutor, please proceed.

14 MR. MICHALCZUK:

15 Q. Mr. Witness, we were discussing for a few minutes the issue of
16 your release from Zllash, and I would like to ask you just a few very
17 brief follow-up questions.

18 And the first of those would be: Who was the person who opened
19 the door to that barn and released you?

20 A. I did not know him. I think it was the guard. He was not known
21 to me, that person.

22 Q. Was he one of those who were interrogating you, who were
23 mistreating you, who were present during those moments of
24 interrogations and mistreatment, or was that another person?

25 A. I don't know. He could have been present, but the last one who

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1 told me, that was the guard. So I don't remember who the person who
2 gave me the news that I was free to go, I don't know who that person
3 was. I don't know him.

4 Q. How was that person dressed?

5 A. In black clothes.

6 Q. Did he have any markings or emblems on his uniform?

7 A. I don't remember, because some of them had, some didn't. So I
8 don't remember about him.

9 Q. Was he armed?

10 A. No, I didn't see that.

11 Q. When he released you, did he call you out by your name or did he
12 use some other words; and, if so, what were those words?

13 A. I don't remember whether he called me by name. What he said was
14 that, "You are free to go." I can't remember whether he called me by
15 name. They had my name. He probably did call me by name, but I
16 don't remember.

17 Q. Did that person who released you from that barn or anybody else
18 during your stay in Zllash give you any release papers?

19 A. No, no, no, no. They didn't take any notes during
20 interrogation, and neither did they give me any release papers when
21 they released me.

22 Q. Did anybody during that time of yours in Zllash give you any
23 document that was the basis of your arrest, detention there in
24 Zllash, or nobody gave you such papers?

25 A. No, never. They did not discuss my issue at all. None of them.

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1 Q. Mr. Witness, are you aware of any Serbian offensive that took
2 place around the time of your release?

3 A. Yes.

4 Q. What kind of offensive was it and around what -- the date of
5 that offensive was?

6 A. When I went to distribute the medicine with persons, the two
7 persons that I mentioned earlier - if we are in public session, I
8 will not mention them, but we know who they are - there were some
9 clashes between the KLA and Serbian forces. The Serbian forces
10 shelled the area and the shells fell at approximately 20 metres away
11 from me at a house which was kind of a barn, also built of straw.
12 And the grenade -- as a result of the impact, the roof of that house
13 fell. And two other grenades fell somewhere near the mountain.
14 Adem Shehu was speaking to someone at that point in time but he did
15 not move at all, despite the fact that the grenades fell in our
16 vicinity. So he wasn't afraid at all.

17 So these are things that I saw with my own eyes.

18 There was other shelling because when the Serbian forces would
19 shell, there was this whistling sound of the grenade flying over the
20 air and falling onto the ground.

21 Q. How many days after your release did that happen?

22 A. Well, what can I say? It's been a long time now. When the
23 Serbian offensive reached our village, I was released at that time.
24 When the Serbian forces entered my village, I was released. So that
25 would be three or four days later. So I was released and three or

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1 four days later, the Serbian forces came in my village. And since I
2 was on the main road before that -- [REDACTED] And
3 as I was going to the main road, I saw them coming down from the
4 hills, the forces. I thought first that they were our soldiers
5 because I could see they were uniformed, but when I saw that they had
6 the white eagle on their arm, I realised that these were the Serbian
7 forces.

8 So I intended to go back to [REDACTED] and one of the
9 soldiers said, "Stop or I will shoot." And he shot towards me. The
10 projectile passed by my feet and [REDACTED]
11 [REDACTED] So probably they
12 just wanted to scare me off, not to kill me.

13 So I went back and then I saw another soldier who was very tall,
14 about 2 metres tall. He had a sort of a scarf, a red scarf, tied
15 around his head. And each of those soldiers had a knife, a big
16 knife, not on their waist but here on the chest. So he asked me,
17 "Where are you going?" And instead of saying in their language,
18 Serbian language, "I was going to close the door," I said, "I was
19 going to open the door." And he then said, "Who is with you?"
[REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 were [REDACTED]
2 [REDACTED], and they were kneeling on
3 the side of the road with their hands behind their heads. And one
4 was with long hair. Both of them were male. And they were both
5 executed.

6 After we had left, my father came back, and I can tell you that
7 the locations where we went to and where we stayed after we had left.
8 We stayed at my uncle's -- maternal uncle. Then we stayed at an
9 inlaw or friend. And then on the third place where I stayed, there's
10 a stadium there, the health care centre. And from there, ten days
11 later, I returned to my own village. And on the way back, I was also
12 attacked twice by the Serbian forces. [REDACTED]

13 [REDACTED]

14 [REDACTED] I could
15 see them from the hill. Actually, they weren't visible but because
16 of the reflection on the glass of the sniper, I could detect them.
17 So I managed to pass the hill crawling. I crawled until I reached an
18 open area. And two weeks or so later, I went for the third time
19 there, as I mentioned earlier.

20 In the meantime, many different people came to my house because
21 my house was in a strategic point. Everybody trying to get to
22 Prishtine --

23 Q. We will come to that a bit later.

24 MR. MICHALCZUK: But in the meantime, if we could go into
25 private session for a moment and then perhaps we could take a break.

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1 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, could you
2 bring us into private, please.

3 ~~{Private session}~~ [Open session]

4 THE COURT OFFICER: Your Honours, we're in private session.

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, I can already say
6 that I sent two redaction proposals with regard to [REDACTED] and with
7 regard to [REDACTED]. So is there something you would like to add in
8 this respect?

9 MR. MICHALCZUK: No, this was exactly that my intervention was
10 to be about.

11 PRESIDING JUDGE VELDT-FOGLIA: And I see also the
12 Victims' Counsel is nodding.

13 MR. MICHALCZUK: Yes, the witness mentioned a couple of names,
14 but also maybe it is prudent to take a look at the whole context. So
15 maybe the removal of the villages only will not suffice to protect
16 the [Overlapping speakers] ...

17 PRESIDING JUDGE VELDT-FOGLIA: No, not only the names. We will
18 do a larger part but I wanted to indicate to you that we noticed that
19 in respect we have to redact a text.

20 MR. MICHALCZUK: Thank you, Your Honour.

21 PRESIDING JUDGE VELDT-FOGLIA: And, yes, we are approaching
22 1.00. So I will go into public now and then I will ask you the
23 question with regard to the -- where we can finish for now.

24 Madam Court Officer, can we go into public, please.

25 [Open session]

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1 THE COURT OFFICER: Your Honours, we're back in public session.

2 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

3 Mr. Prosecutor, we are approaching 1.00. Could you indicate
4 when would be a good moment to have a break, or if you want to pose
5 one or two more questions that would finish what you were working on
6 at the moment.

7 MR. MICHALCZUK: Your Honours, the perfect moment would be now.
8 Thank you.

9 PRESIDING JUDGE VELDT-FOGLIA: Now. That's very good.

10 Mr. Witness, we will take a break for one and a half hours, till
11 2.30. So take some rest and we will see you back at 2.30. Thank
12 you.

13 THE WITNESS: [Interpretation] Thank you, Your Honour.

14 PRESIDING JUDGE VELDT-FOGLIA: Please. And I see that
15 Madam Court Usher is already there. Thank you.

16 [The witness stands down]

17 PRESIDING JUDGE VELDT-FOGLIA: We will now break and resume at
18 half past 2.00.

19 The hearing is adjourned.

20 --- Luncheon recess taken at 1.00 p.m.

21 --- On resuming at 2.32 p.m.

22 PRESIDING JUDGE VELDT-FOGLIA: Welcome back.

23 I will call appearances. I see that -- no, the SPO is almost in
24 the same composition.

25 MR. MICHALCZUK: Indeed, Your Honours. We are almost in the

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1 same composition. For the afternoon session, Mr. Filippo De Minicis,
2 Associate Prosecutor, will not be present.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you.

4 And Victims' Counsel, please, I see you are in the same
5 composition, and I see you nodding. So that's okay.

6 And the same goes for the Defence team.

7 Good. And Mr. Mustafa is also present via videolink.

8 Yes. I will now ask Madam Court Usher if she can bring the
9 witness in. Thank you.

10 [The witness takes the stand]

11 PRESIDING JUDGE VELDT-FOGLIA: Hello. Mr. Witness, welcome
12 back. Welcome back, Mr. Witness.

13 THE WITNESS: [Interpretation] Thank you.

14 PRESIDING JUDGE VELDT-FOGLIA: I give the floor to the SPO to
15 continue with the questioning of Witness W04669. You have,
16 Mr. Prosecutor, 2 hours and 27 minutes left for your questioning from
17 your estimate.

18 Please proceed.

19 MR. MICHALCZUK: Your Honours, with the highest degree of
20 certainty, I can tell you that I will not use all that time.
21 Probably I would need half an hour from now.

22 PRESIDING JUDGE VELDT-FOGLIA: Thank you. You have the floor.

23 MR. MICHALCZUK:

24 Q. Mr. Witness, I would like to come back to one issue that we
25 discussed before the break, and I need one clarification. However,

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1 to do so, I would need to pull up on the screen a part of your
2 statement that you gave before the SPO.

3 MR. MICHALCZUK: And could I ask kindly, Madam Court Officer, to
4 pull up on the screen the document, the statement 082023-TR-ET,
5 Part 2, RED1. It's redacted statement. And, if possible, I would
6 like to go to line 7. And I'm going to -- it's page number 14 and
7 lines from 7 to 14 inclusive.

8 Q. Mr. Witness, it is only in the English, but I'm going to read it
9 to you and you will have an interpretation into Albanian in your
10 headphones. So let me first read it to you and then I will ask you a
11 question.

12 So there was a question from the Prosecutor:

13 "Speaking about these two persons who are there with you, did
14 you see them being mistreated?"

15 You said: "No. But they told me."

16 And then the Prosecutor asked you the following question:

17 "Yes. Did you hear anything that could suggest them being
18 mistreated physically?"

19 And then your answer was: "Yes, yes, they ow'd when they were
20 hit."

21 Mr. Prosecutor asked: "Sorry. They?"

22 And your answer was explained by the interpreter:

23 "Oh, it's an exclamation that he made. Ai [phoen] is when they
24 were hit."

25 My question to you is this: Today you told us that you did not

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1 hear any of those two detainees being mistreated and here in your
2 statement that I have just read back to you, that you gave before the
3 Prosecutor, you clearly stated that you heard them making this noise
4 when they were hit.

5 So my question to you is, just to have this point crystal clear,
6 did you hear any of those two persons when they were mistreated? Did
7 you hear any voices coming out from them during their mistreatment or
8 not?

9 A. The time when my declaration, my statement was given earlier, so
10 that was something that I remembered and probably this is why I have
11 said what I've said. But in the moment in time when you asked me
12 about this question, I was not recalled of it. I didn't remember it.
13 It might have been that I probably heard some exclamation from these
14 persons, from one of these persons maybe, but I don't remember it
15 now.

16 I don't know whether I was clear or not, but a very long period
17 of time has elapsed, and it might happen that I've heard someone back
18 then, but the idea was that that's not something that I have in my
19 mind as I speak now. That's gone from my mind so I can't remember it
20 now. That's, well, all I can say.

21 Q. No problem. It's clear. Thank you very much for this
22 explanation.

23 Coming back to the time around which you were released from
24 Zllash and, as far as I remember, you said that there was one person
25 from that barn released before you and the other person stayed in the

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1 barn after you had been released. Is that correct?

2 A. This is what I remember.

3 Q. Do you perhaps know what happened to that man who remained in
4 the stable that -- after you had been released?

5 A. I do not know, but I have met him many years back. I have met
6 him twice. And on both occasions, he asked me on whether we will
7 tell what has happened to us. What I told him was that it's not the
8 right time to do that and it's not either the right place to do that.
9 And he understood as to why I was saying that.

10 Q. Why did you say it was not the right time or not the right
11 moment to report those -- those things that happened to you in
12 Zllash?

13 A. Because I told this person that, "If you're going to report what
14 happened, all the institutions are held by those people."

15 Q. All those institutions are held by those people. "Those
16 people," who do you mean by saying --

17 A. Well, the issue is that I told him that it is not the right
18 time. For me, it was not the right time, and this is what I told
19 him. I don't know what he did and whether he reported about that or
20 not, but this is what I told him.

21 Q. My last question was about "those persons." Who do you mean by
22 "those persons"?

23 A. I'm not referring to anyone. He asked on whether we would have
24 to report our case to the authorities, to the police authorities or
25 to the judicial authorities, that is, to the court, to the

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1 prosecution offices. And the answer I gave to that question is that,
2 no, it's not the time now. That's my answer.

3 Q. Yes, yes, I understand. However, you said, and I can even quote
4 your statement today, you said that this was not the right time as
5 these institutions are held by those persons.

6 By who were the institutions held at that time?

7 A. I didn't say that. The institutions are not reliable in that
8 respect. So the thing is that I didn't trust the institutions of the
9 time so that was why I said that. At least that was my -- my belief.
10 I didn't believe in those institutions. I didn't trust them.

11 Q. When did that meeting or those meetings take place? Do you
12 remember at least the year?

13 A. The meetings took place approximately after some years after
14 that, so probably 2006 or later than that. I'm not quite sure,
15 though.

16 Q. Did that person tell you about the circumstances of his release
17 from Zllash?

18 A. I remember that he told me that he was released immediately
19 after myself, but I didn't ask him about the time or anything else.
20 I know that I have taken note of his first name and last name, his
21 telephone number as well, and I told him that we would keep in
22 contact. That's all.

23 So, as a matter of fact, I don't have his name or last name now
24 or the telephone number because I used to save his telephone number
25 in another telephone which I don't have now, and I haven't manage to

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1 recover his first or last name. But I do know this person. And if I
2 see the picture, I can recognise him. And he was the person that had
3 [REDACTED]

4 [REDACTED] I told you that he was halted there, he was stopped there
5 because of this weapon that they had taken from him. And this is all
6 about him.

7 Q. Yes. Coming back to your time in Zllash, I've got just a few
8 very general questions. While in Zllash during your detention time
9 there, were you provided any medical attention?

10 A. No. I didn't ask for any medical attention nor did I receive
11 any.

12 Q. During your time of your detention in Zllash, did you have any
13 access to your family or to the outside world?

14 A. No, I did not. The person that left the place before myself, I
15 asked him to notify a cousin of mine that was living in the same
16 village. I mean, if you want, I can tell exactly who that is. But I
17 just asked this person to tell my cousin that I was staying there. I
18 told this to the person that was released before me. And I told him
19 who to tell that I was there. I don't know whether he told this
20 cousin of mine or not, but, yeah, this is what happened.

21 Q. The name of this cousin is not necessary, at least for now.

22 So you said that you were not given any access to your family
23 during that time and you were not given any possibility to contact
24 the outside world. How about these two other detainees who shared
25 that barn with you? Were they given any possibility to have a

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1 contact with their families or did they have any opportunity to
2 contact the outside world?

3 A. What do you mean, having any contact with the outside world?
4 There was no communication means back then. It was only physically
5 if someone would approach the place. But nobody approached the
6 place, neither for them or for me.

7 Q. Mr. Witness, during that time that you spent in Zllash, how did
8 you feel psychologically, if you could tell the Court?

9 A. I already told you. At the very beginning, it seemed very
10 illogical to me why I was sent there. Then when we saw the victim,
11 when we saw the person that was brought in the barn in that status,
12 in that situation, immediately we started to think that we were at
13 risk. So I was just starting to realise and to analyse why he was
14 brought there, and in that moment in time, I was just thinking of
15 myself being at risk and that we would be at the same risk. I mean,
16 everyone there would be at the same risk.

17 Q. I understand. Was the barn where you were kept locked?

18 A. Yes, it was. It was guarded as well. There were guards there.
19 The entry was guarded.

20 Q. What injuries did you suffer as a result of things that happened
21 to you in Zllash?

22 A. When I got back home, when I started to clean myself, I saw that
23 my shoulders - here - I mean, the place there was bruised, it was
24 black. It was the place where I was hit. It was bruised like
25 [indiscernible] a blackish colour and those marks were on my

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1 shoulders for four, five days, even more than that, even longer than
2 that.

3 Q. Did you seek any medical assistance after you had been released
4 from Zllash?

5 A. No, I didn't.

6 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, just for
7 clarification, the witness put his hand on his left shoulder, on the
8 upper part, when indicating where the harm was felt.

9 And if I don't see any objection in this regard, then we put it
10 on the record like that.

11 Please proceed.

12 MR. MICHALCZUK: Just maybe one question to clarify this issue a
13 little bit further, with your permission, Your Honours.

14 PRESIDING JUDGE VELDT-FOGLIA: Yes, please.

15 MR. MICHALCZUK:

16 Q. When you inspect your body, was it black -- was it black only in
17 the part that you touched --

18 A. [No interpretation].

19 Q. -- or could you simply describe to the Court where this black
20 colour on your back was located on yourself?

21 A. So look at this as a mirror. So, for instance, when I was
22 observing myself, I was cleaning myself, I was in the bathroom, and
23 when I turned my head back, I could look at my back. So this is how
24 I saw it. And that's something that I didn't tell to anyone, neither
25 to my mother, to my brothers or anyone else for that matter.

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1 Q. Thank you for this explanation. My question related more to the
2 area of your back that was bruised in the manner that you describe,
3 that was black. Could you tell what part of your back precisely was
4 bruised --

5 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness --

6 THE WITNESS: [Interpretation] All over the back. Starting from
7 here and the other part as well, down the back -- I mean, all the
8 area.

9 PRESIDING JUDGE VELDT-FOGLIA: Mr. Witness, please could you
10 wait till Mr. Prosecutor has finished his question or what he is
11 saying and then answer. Because for us, it's impossible to
12 understand what you say if two persons at the same time are talking
13 because the interpreters cannot translate that for us. Yes?

14 So please wait till Mr. Prosecutor has finished.

15 THE WITNESS: Okay. Thank you. Excuse me.

16 PRESIDING JUDGE VELDT-FOGLIA: Please proceed, Mr. Prosecutor.

17 MR. MICHALCZUK: Just a second, Your Honour.

18 [Specialist Prosecutor confers]

19 MR. MICHALCZUK: Your Honours, I would like to show to the
20 witness one photograph and I would like to still stay in the open
21 session. However, I would be very happy if this photograph was not
22 displayed to the general public. Just to the witness and the people
23 present here in this courtroom.

24 So I'm referring to the photograph number 082020-082023, page 3.

25 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, it is my

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1 understanding that even if we are in open session, what is shown on
2 our evidence screen is never shared with the general public.

3 MR. MICHALCZUK: This is what I'm asking.

4 PRESIDING JUDGE VELDT-FOGLIA: Yes, but that's a general rule we
5 proceed on.

6 MR. MICHALCZUK: Yes, Your Honours. Thank you very much for
7 reminding me about this.

8 Q. Mr. Witness, can you see this photograph on your screen now?

9 A. [Interpretation] Yes, I can.

10 Q. Can you see the signature underneath that photograph?

11 A. Yes.

12 Q. Whose signature is it?

13 A. It's mine.

14 Q. Could you tell the Court what is on that photograph.

15 A. This shows the place where we were staying.

16 Q. Mr. Witness, there is a blue, dark blue circle around two
17 buildings. Is that the place encircled by yourself?

18 A. The drawing? I don't remember that I've done that, so probably
19 someone else has done that. He asked first on whether this was the
20 place and probably they have encircled the place.

21 Q. Is that place encircled the place where you were held?

22 A. I think that this object, this place that is with the black
23 tiles, that's the place where we were held, we were kept.

24 Q. Are you referring to that building with -- which is --

25 A. I'm talking about that building that is attached to the other

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1 building, which seem to be together. That's on the left-hand side
2 from where you look at it.

3 Q. So counting from the right, it's the third building. Counting
4 from the right, the third building on the left-hand side of the
5 photo; is that correct?

6 A. Yes, yes. That's correct.

7 MR. MICHALCZUK: Your Honour, I'm tendering this photo into
8 evidence. Just this photograph. And we could remove it from the
9 screen.

10 Q. Mr. Witness, I have another question for you, totally different,
11 however related to the events we are talking about.

12 Do you know anything about a Kosovo Liberation Army unit called
13 BIA?

14 A. I have learned about it later. After I got back from that place
15 the last time.

16 Q. Do you know where that unit was stationed?

17 A. No.

18 Q. Do you know who the commander of that unit was?

19 A. I have heard that when I was there the last time, the time that
20 I told you that I was with the two persons and together with the sick
21 person as well. When I got back and after I left the weapon there,
22 the weapon that was left by other people at my home, that there were
23 some other soldiers leaving the weapon in my home. So once I handed
24 over the arm and I got back home, I had some persons, some soldiers
25 from Zllash, they came to the yard of my house. They stood in my

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1 house. I offered them food and I offered them beverages as well, and
2 these persons told me that, "We are going to Prishtine." And I told
3 them, "Who are you? Which unit do you belong to?" And they told me
4 that they belonged to the BIA. That was the first time that I heard
5 about the name of the unit, and they told me that in charge there was
6 Commander Cali. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] I didn't know who they were. I was
16 not interested to know who they were, but one of them told me that
17 Cali was in charge and, [REDACTED]

18 [REDACTED]

19 [REDACTED] This is how I understood it.

20 Q. Let's clarify this issue because this is -- this might be
21 relevant for the Court.

22 So you said that at some point certain people came to your place
23 claiming that they're members of BIA unit; is that correct?

24 A. Yes, they were wearing civilian clothing and they had weapons as
25 well.

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1 Q. When was it more or less; if you remember?

2 A. It was about two or three days after I handed over the weapon.

3 Present there was [REDACTED].

4 Q. How many days after your release was it when they came to your
5 place?

6 A. It was about two, three weeks, more or less. After the release,
7 two weeks for a fact -- I mean, this is approximate because I don't
8 exactly recall but I'm trying to come up with an approximate period
9 of time, so this is the approximate period of time after my release.

10 Q. It is perfectly understandable. It was 20 years ago, so nobody
11 requires from you to be super precise about dates.

12 I have a question, however. So this group came to your place
13 claiming that they were BIA and you said that one person in that unit
14 introduced himself to you as Cali; is that correct?

15 A. Yes. Yes, it is.

16 Q. And that person told you that there was [REDACTED] Cali who was
the

17 head of BIA unit. Is that what you said?

18 A. Yes.

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 A. Yes, that's correct.

24 Q. Did that Cali who told you, "I'm Cali," introduce himself to you
25 by his full name?

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1 A. No. I did not ask about their names. None of them. I just
2 knew him as appearance.

3 Q. Did any members of that group who claimed to be BIA members call
4 that person by any other name than Cali?

5 A. No. Cal, this is how they would refer to him. So even earlier,
6 before this happened, while I was being trained, so he was called
7 Cali. This is how they called him.

8 Q. So if I understand correctly, you said that at some point,
9 because you said something about generation of people who were
10 trained, that [REDACTED] was there during that training. Do I
11 understand that correctly?

12 A. I saw him during the training, before they came to my house.
13 That one was in a group just before my group and he was in the group
14 that was just about to complete the training.

15 Q. So you're referring right now to that Cali who was the head of
16 BIA or that Cali who came to your place saying, "I'm Cali"?

17 A. The one who came to my place. I'm talking about the same
18 person.

19 Q. So that Cali who came to your place was the Cali who was
20 training in that other group in Zllash and they were about to finish
21 the training before your training started. Is that what you are
22 saying?

23 A. Yes.

24 MR. MICHALCZUK: Your Honours, just a second for very short
25 consultation, if I may.

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1 PRESIDING JUDGE VELDT-FOGLIA: I have -- before you finish this
2 part of the interrogation, I would like to have -- to make one
3 clarification. But I prefer to leave you -- have you finish the
4 interrogation.

5 MR. MICHALCZUK: I appreciate that, Your Honour.

6 [Specialist Prosecutor confers]

7 PRESIDING JUDGE VELDT-FOGLIA: In the meantime, Mr. Witness?
8 Mr. Witness.

9 THE WITNESS: Yes.

10 PRESIDING JUDGE VELDT-FOGLIA: Please may I remind you again, on
11 behalf of the interpreters, before you give your answer, to leave --
12 to have the Prosecutor finish his question. So he asks you a
13 question, then you wait a moment, and then you give your answer.
14 That would help for the interpretation.

15 THE WITNESS: [Interpretation] All right. Thank you.

16 [Trial Panel and Court Officer confer]

17 MR. MICHALCZUK:

18 Q. Mr. Witness, a few follow-up questions because we have to
19 clarify this matter.

20 Do you know how Cali, the commander of BIA, looked like?

21 A. I understood lately who he was and what he was. I can describe
22 him. It's the one with the glasses; right? I didn't know who he was
23 at the time. I understood -- I found out about it later. And when I
24 understood who was the person in charge of BIA, I immediately thought
25 of a person who introduced himself to me as Cali, and that is not the

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1 same person. Although he -- the other Cali told me about this Cali,
2 I didn't know who Cali was because I wasn't interested at all about
3 him at that time.

4 Now, comparing his looks with the way the other Cali looks,
5 you -- I can conclude that there were two Calis.

6 Q. So that Cali who was the commander of BIA, did you ever see him
7 in Zllash during the time of your training, during the time of your
8 detention, or not?

9 A. No. [REDACTED]

10 Cali who is here, I saw him twice. And I remember very well when
11 that was. Once in the military barracks in the village. I will not
12 mention the name of the village but the name is in the statement that
13 I gave earlier. And, secondly, I saw him in the barracks in
14 Prishtine much later. So I saw [REDACTED] Cali twice. [REDACTED].

15 [REDACTED]

16 [REDACTED]. As I said, I wasn't

17 interested at that time. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. Let me just --

21 MR. MICHALCZUK: Your Honours, let me just read the last words
22 of the witness before I pose my next question, if I may.

23 Q. So that person whom you saw twice, in Prishtine barracks and in
24 that village that you don't want to mention the name, was that Cali
25 who was the commander of BIA? Is that what you are saying?

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1 A. This is what I learned now, later. Because I didn't know who he
2 was and I wasn't interested to find out who he was. And I didn't
3 know what BIA was when he told me that. I knew that it was a certain
4 structure, a unit, but as to what its task was, what for it was, that
5 I didn't know and had no interest in finding out. So I had no
6 knowledge about its tasks, duties. So this is in general the answer
7 that I can give you.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 MR. MICHALCZUK: Your Honours, I would like to read to the
15 witness another part of the statement, and this statement is again
16 082023-TR-ET, Part 3, RED, page 20, lines from 3 to 8.

17 Q. Mr. Witness, listen to this very short part, this very short
18 exchange between the Prosecutor and yourself when you talk about BIA
19 and Cali. Please listen carefully.

20 "Q. That unit or those people who were training with Cali, are
21 you aware whether they were BIA soldiers or some other soldiers?"

22 And your answer was:

23 "No. At that time I thought they were all the same, and it was
24 only later that I understood this unit, this name you mentioned, I
25 learned this after the war. It was after the NATO bombing that I

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1 understood or learned about ... BIA."

2 So from this exchange, it seems to me that you learned about
3 BIA, its existence, its name, only after the war. Today you're
4 saying that at some point when some people came to your place - and
5 Cali was one of them - they introduced themselves to you as BIA.

6 So what statement is true? This one given before the Prosecutor
7 or what you said today?

8 A. It's the same thing. We're talking about the same period of
9 time. There is no difference.

10 Q. So was there still war when those persons came to your place and
11 they tell you there and then that they were BIA? Because from this
12 part, it seems that they came to your place only after the war.

13 A. Based on the first and second statement, they came in my house
14 precisely at that time when NATO entered, was bombing Serbian targets
15 and entering Kosovo. When exactly they entered Prishtine - i.e.,
16 NATO soldiers - that I don't know because I don't have exact
17 information. But when they came to me, this unit on their way to
18 Prishtine, the NATO soldiers were not [REDACTED] So
19 these members of this unit said who they were and who this Cali was,
20 and I'm referring to the same period of time both in my previous
21 statement and now.

22 As things developed in general, I can tell you that it's about
23 the same time. If you think that I've said something that you find
24 difficult to understand, I think that I said the same thing here what
25 I stated in my statement.

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1 Q. No, it's a bit clearer right now when it comes to the timelines.
2 Thank you very much for that.

3 A. And only later I realised that this person now who we know based
4 on the media as a person who was in charge then, I described to you
5 when I saw him. So until later I didn't know who that person was and
6 what his function was.

7 This is what I said.

8 Q. My questions stem from the fact that in your SPO statement, and
9 we have everything on that particular page, in that statement of
10 yours given before the Prosecutor, you never mentioned the existence
11 of [REDACTED] -- if I may.

12 And so what we know from this case and also from the literature and
13 some other evidence, [REDACTED]

14 [REDACTED]

15 You also did not say that in your statement.

16 And that's why I'm trying to clarify what is the truth, because
17 the Judges should know what really happened.

18 So why didn't you mention in your statement, on that page, the
19 [REDACTED]?

20 A. That's true. At that time I didn't know. I said something that
21 I learned later. What is stated in the first statement is true and
22 what is stated in the second is also true. [REDACTED]

23 [REDACTED] And even that was after I gave the
24 first statement, when I learned about this.

25 Q. This statement I'm talking about, the statement you have in

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1 front of you --

2 A. [In English] Yes.

3 Q. -- was taken just last year. So do we understand correctly that
4 you found out about [REDACTED] only since then,
5 since that interview that took place last year?

6 A. [Interpretation] Yes, that's true. Absolutely true. The fact
7 that [REDACTED], I learned after the statement that is in
8 front of me.

9 Q. I understand. Thank you.

10 MR. MICHALCZUK: Your Honours, please give me just a second. I
11 need to find another place in the statement that we might put to the
12 witness.

13 PRESIDING JUDGE VELDT-FOGLIA: Very well. Please proceed.

14 MR. MICHALCZUK: I would kindly ask the Court Officer to show to
15 the witness and to all of us this statement of this witness and,
16 again, this is the same number, 082023-TR-ET. It is Part 3, page 17.
17 And I would be very happy to start reading from line 16. Just a few
18 lines.

19 Q. Mr. Witness, this is precisely the exchange that you had between
20 yourself and the Prosecutor about this unit called BIA and, actually,
21 line 16 is the first line when BIA is mentioned.

22 The question of the Prosecutor is:

23 "Are you aware of the unit called BIA?"

24 Your answer was:

25 "Yes ... I learned later at the time of NATO bombing, when NATO

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1 bombed the Serb positions, I learned about the BIA unit, that they
2 were there. I learned also who the commander was, Commander Cali."

3 The question of the Prosecutor then is:

4 "Do you know the name of Commander Cali?"

5 You said:

6 "No. But I do know him by sight. If I see him, I can -- I know
7 who he is and I know he was called like that."

8 Then the Prosecutor asks you:

9 "Are you aware that before the offensive of the Serbs in
10 April that BIA unit was present in Zllash?"

11 MR. MICHALCZUK: Could we move to another page.

12 Q. Your answer was:

13 "I don't know. I don't think so, because this Cali that I
14 mentioned had done the training just before -- right before me. He
15 was ... with a group just before my group or the one before that to
16 do the training in Zllash."

17 So from this short exchange, the question was about the
18 commander. You said Commander Cali. And then: Do you know him?
19 You said: I know how he looks. And then you continue saying that he
20 was the one doing training in Zllash. And I emphasise this:
21 Commander Cali was the one doing the training in Zllash.

22 So today you told us that there was another Cali, not
23 Commander Cali who was doing that training.

24 So my question is, just to clarify this matter, was it
25 Commander Cali, commander of the BIA unit as you said here before the

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1 Prosecutor, the one who was also, as you said, doing the training in
2 Zllash?

3 A. I was thinking about the person who has been trained in Zllash
4 at that time. I was thinking about him because he was the one in
5 charge of that unit. So there was no one else that I could think of.
6 He was present himself. And the one that I'm referring to was in
7 charge of that group. Because about this other person that -- in
8 reality, I knew nothing about him up until the moment in time that I
9 saw him, that I had seen him two times in barracks, in military
10 barracks. So every time I'm talking about the Cali that appeared
11 himself in front of me and he was in charge of the group or a
12 commander of the group. Because every person that was in charge of
13 the group self-proclaimed himself a commander. And that is the
14 reason why I said what the situation was like.

15 Q. So now your evidence today is that between just last year and
16 today, only then, you realised that there were [REDACTED];
17 is that correct?

18 A. It is true.

19 [Specialist Prosecutor confers]

20 THE WITNESS: [Interpretation] And every time in the statement
21 that you referred, so it's true, this is how I understood him. So
22 this has not to do with anyone else but [REDACTED]

23 [REDACTED] So I know this
24 person. I have seen this person two times, all in all, in my life.
25 Once at the end of the exercise and the second time when he came to

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1 my house. [REDACTED]

2 [REDACTED]

3 [REDACTED] So I have seen

4 this person, this Cali, in those barracks, but I didn't know who that
5 person was or what he was in terms of his occupation. But if I see
6 someone I would never forget him.

7 So the person that I saw was the commander of those units in
8 those two barracks although NATO was present in the country. What
9 this means is that they did not hand over their armament. NATO was
10 in Prishtine, and they were staying in the two places that I
11 mentioned.

12 So in the street Beka [phoen] was one of the barracks, and,
13 again, in the village we had a barracks of the military forces but
14 it's no longer present in the village as we speak.

15 MR. MICHALCZUK:

16 Q. I understand.

17 MR. MICHALCZUK: I have just a few remaining questions, but to
18 pose them I would like to move into private session.

19 PRESIDING JUDGE VELDT-FOGLIA: [Microphone not activated].

20 MR. MICHALCZUK: They are on a different topic.

21 THE INTERPRETER: Microphone, please.

22 PRESIDING JUDGE VELDT-FOGLIA: I will repeat my question again
23 because we are in public session.

24 Your questions you would like to pose in private, are they on
25 the same topic or on a different topic?

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1 MR. MICHALCZUK: I have a few questions on a different topic.

2 PRESIDING JUDGE VELDT-FOGLIA: Okay. I would just like to ask
3 one question on the topic we have been discussing up till now in
4 order to not be disruptive when we touch on what.

5 Mr. Witness, talking about this Cali that came to your house, is
6 this name Cali a nickname? Does this man -- does this person have
7 another name, a family name with which he is known that you know
8 about?

9 THE WITNESS: [Interpretation] I do not exactly know. I do not
10 exactly know. It's not for sure, but I think that his name was
11 Salih. But his short name was Cali. But like I said, I don't know
12 for a fact.

13 PRESIDING JUDGE VELDT-FOGLIA: You don't know his family name or
14 do you know -- I will say it in a positive way. Do you know his
15 family name?

16 THE WITNESS: [Interpretation] No.

17 PRESIDING JUDGE VELDT-FOGLIA: And this name Cali, was that a
18 nickname?

19 THE WITNESS: [Interpretation] Yes. This is the impression I
20 had. So while he introduced himself, I mean, that was the impression
21 that I had. It was both during the training and at the time that he
22 came to my house.

23 PRESIDING JUDGE VELDT-FOGLIA: So you cannot give us any further
24 identifying information with regard to this person?

25 THE WITNESS: [Interpretation] No, I cannot. But if I see this

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1 person -- so I already described this person to you, but if I see a
2 picture, I can identify on whether he is who I am talking about.

3 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Witness.

4 Mr. Prosecutor, please proceed.

5 MR. MICHALCZUK: Just one question while still in the open.

6 Q. By referring to [REDACTED], do you mean the accused in
7 this case?

8 A. Yes.

9 MR. MICHALCZUK: Your Honours, let's move into private session.

10 PRESIDING JUDGE VELDT-FOGLIA: Madam Court Officer, can you
11 bring us into private session, please.

12 ~~{Private session}~~ [Open session]

13 THE COURT OFFICER: Your Honours, we're in private session.

14 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

15 Mr. Prosecutor, you have the floor.

16 MR. MICHALCZUK:

17 Q. Mr. Witness, do you know what happened to [REDACTED]
18 finally? You last saw him in Zllash when he was taken away from the
19 barn. Do you know what happened to him at the end?

20 A. No. The only thing that I know is that he disappeared and I
21 never saw him again. Afterwards, that is, after the war, after NATO
22 entered the country, I learned from [REDACTED] that he died.

23 Q. Let me move to an entirely different topic. I have just a few
24 questions in relation to that.

25 Did you ever have a conversation [REDACTED]

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1 concerning investigating war crimes?

2 A. It depends on what type of investigations you are talking about.

3 Q. Did you have any conversation [REDACTED] about

4 investigating war crimes against the members of the Kosovo Liberation

5 Army, to be more precise?

6 A. No.

7 Q. Do you remember any exchange between you and any of [REDACTED]

8 [REDACTED] about the danger that such investigations against

9 war criminals could pose some danger to your family members? Do you

10 recall such conversation?

11 A. I knew about that and that is the reason why I communicated to

12 no one from them.

13 Q. My question was about that conversation. Do you recall having

14 such a conversation with [REDACTED]

15 A. I said no.

16 MR. MICHALCZUK: Your Honours, I would like to show to the

17 witness and to everybody in this courtroom the statement of the

18 witness he gave to the Prosecutor. The number is 082023-TR-ET. It's

19 Part 3, RED1, page 12, and it continues on page 13.

20 So on page 12, if I -- Your Honours, could start reading it, and

21 I would like the witness to confirm or deny that.

22 Q. There was a question by the Prosecutor:

23 "But maybe at some other point in Zllash somebody told you

24 whatever happens to you here, don't talk to anybody."

25 And then this question was followed by a quite extensive answer

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1 of yours. You said:

2 "No. I do remember one occasion, which ask quite interesting,
3 actually, [REDACTED] When we had -- when we
4 were talking about our discussions about these war crimes issues that
5 the newspapers were writing about, I expressed my indignation and
6 said to these persons or such persons that they should be arrested
7 and prosecuted. And at that point [REDACTED] - I don't
8 remember exactly who - told me, Do you have children? And I said,
9 Yes, [REDACTED] At that very
10 moment I did not realise what he meant by that, but then later I
11 understood what he ... meant."

12 And then the question is:

13 "So how did you understand it?"

14 And you said:

15 "I understood it as a threat [REDACTED] meaning
16 that if you were on this side, you have this approach where you would
17 undertake anything and you would [REDACTED] And I
18 told him, You just do the slightest move and you will see. And I
19 understood that had supporters to that level in there."

20 And the question was:

21 "You mean [REDACTED]"

22 And you said:

23 "Everywhere. Of course. In the prosecution offices.

24 Everywhere."

25 Did you say that to the Prosecutor?

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1 A. Yes, I did.

2 Q. Did that situation indeed take place?

3 A. Yes, it is true but this is not official. We had a
4 conversation, we had different conversations about these topics even
5 before that, but that was not official. Because your question was on
6 whether you have officially asked about this issue. And the answer I
7 provided to your question was no. But this is what happened.
[REDACTED]

8 [REDACTED], but I

9 don't remember who that person was exactly.

10 I didn't understand right there and then what he was telling me.
11 But when I got back home and I analysed the discussion, then I got to
12 understand what the message was. And it seemed very illogical to me
13 and how was it possible for him to think that way. And I observed
14 that half of [REDACTED] not only here, but that is a reality in
15 prosecution offices as well, and in other offices as well, they are
16 of that nature, of the same nature, and they are in line with the
17 answer that he provided to me.

18 What I've told you is true. But the way on how you asked the
19 question, it was not clear to me. It was not clear on whether you
20 were asking me on whether you have reported the case or on whether
21 you have filed something official in terms of investigation of the
22 war crimes and the answer was no and I told you the reason as to why
23 no.

24 After you read my statement, I'm telling you that, yes, but this
25 was a public discussion.

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1 Q. Mr. Witness, sometimes I have this tendency to ask questions
2 which are not clear and I would like to apologise for that. I will
3 try to make better next time.

4 A. It is exactly this way. So the reality is still present. As we
5 are here, the reality is like the one that I have described about
6 this issue. Or to find a solution to the issue or the answer to
7 every institution, I think that many years have to pass by in order
8 for myself to trust the authorities to take care of these cases, and
9 also taking into account various things that have happened to me
10 while [REDACTED] and the way in how they have been
11 resolved. I can bring you other examples as well what had happened
12 later, for other issues not related to this topic and question, but
13 the logics is the same.

14 Q. Okay. I think it is clear. No need to elaborate. Thank you.

15 MR. MICHALCZUK: Another question which is not strictly related
16 to my last question. However, I would kindly ask Your Honours to
17 still remain in the private session.

18 Q. Mr. Witness, have [REDACTED]
19 [REDACTED]? I remind you that it is still a
20 private session so no one could hear your answer.

21 A. Yes. And I believe that that was a breach of human rights. And
22 so a breach of the right to free expression. However, our
23 institutions have not considered that that way. So it was only
24 because of me [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 And I feel myself as being quite human so that's a -- I mean, that's
3 an emotion. So I feel myself as being human. But because of that, I

4 [REDACTED]

5 [REDACTED] and, at the same time, I was removed from

6 [REDACTED] That has happened now, that is, before I came here.

7 So because of that, I'm not -- no longer allowed to [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] So like I said, this is

12 a breach of my right to the right to freely express myself. And it
13 seems like Kosovo is in China or North Korea because these are the
14 only two countries where the freedom of speech is not allowed.

15 Nowhere else in the world can that be tolerated.

16 Q. Mr. Witness, if I could maybe break it down for the Court and
17 everybody to understand it a bit better. [REDACTED]

18 [REDACTED] is that correct?

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 Is that prohibited in your country? Can someone give me an
4 answer to this question?

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A. Yes, that's correct.

9 MR. VON BONE: Your Honour, may I object to something. I really
10 wonder what is the --

11 PRESIDING JUDGE VELDT-FOGLIA: Defence counsel, may I please
12 give you the floor and then you --

13 MR. VON BONE: Yes.

14 PRESIDING JUDGE VELDT-FOGLIA: Please proceed.

15 MR. VON BONE: Your Honour, is there anything which is relevant
16 to the charges that are -- that the questions of the Prosecutor is
17 asking the witness? Because I have no idea in which direction this
18 is going or whether it has anything to do with Mr. Mustafa. I really
19 cannot see it. Maybe there is some clarification on it. Then I'm
20 fine. But if -- if we are going to talk about human rights or
21 whatever, in general, it gives no specifics.

22 PRESIDING JUDGE VELDT-FOGLIA: [REDACTED] I
23 give the floor to Mr. Prosecutor if he can say something more on
24 that.

25 MR. MICHALCZUK: Your Honours, two reasons for that. One is

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1 actually beneficial to the Defence because the issue of the witness
2 [REDACTED] to some extent impacts on
3 the issue of his credibility as a person in general, so it is
4 actually helpful for the Defence and we are giving him an advanced
5 notice.

6 This morning we discussed the new filing of the Prosecution,
7 some documents, in Albanian language, and they pertained exactly to
8 that. This is an ongoing obligation on the part of the Prosecution
9 to release whatever we have at a certain point that could assist the
10 Defence, and we believe that this is of assistance.

11 The second reason is that we believe it's necessary in cases
12 against the members of the Kosovo Liberation Army to present the
13 entirety of atmosphere and the surroundings in which the witnesses
14 operate. So, for example, if the witness [REDACTED]
15 [REDACTED] at the same time in his statement he is claiming
16 that some people who are alleged war criminals hold the institutions,
17 official institutions under their thumb, I believe it is good to
18 elicit what is the basis of his knowledge. And this is a -- we
19 believe, the Prosecution believes, this is an example that might
20 potentially illustrate that control of the former KLA members over
21 Kosovo institution, [REDACTED]

22 These are the reasons, Your Honour.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you. No, no, I will ...
24 Defence counsel, would you like to react any further?

25 MR. VON BONE: As long as it becomes clear [REDACTED]

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1 [REDACTED], because we are not aware of it.

2 PRESIDING JUDGE VELDT-FOGLIA: I will give you the floor again,
3 Mr. Prosecutor, please.

4 MR. MICHALCZUK:

5 Q. I was about to clarify that issue and I'm going to ask a few
6 questions about it.

7 PRESIDING JUDGE VELDT-FOGLIA: No, no. Wait, wait, wait. I
8 will allow this question because I see credibility issues here for
9 sure. So please continue.

10 MR. MICHALCZUK:

11 Q. Mr. Witness, could you tell the Court [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A. Yes.

20 Q. And then, as you said, [REDACTED]

21 [REDACTED]?

22 PRESIDING JUDGE VELDT-FOGLIA: Mr. Prosecutor, excuse me for
23 interrupting you. I want just to clarify for the Defence. This
24 morning, I referred to disclosure package number 95. And I asked for
25 an English translation because it was in Albanian. That's the

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1 package we are talking about, as far as you were not aware of. But
2 just for your information.

3 MR. MICHALCZUK: Your Honour, just to complement the line of
4 Your Honour, I would like to inform everybody and also the Defence
5 and that is under translation and we're going to have it ready in
6 English tomorrow.

7 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Mr. Prosecutor.

8 MR. MICHALCZUK:

9 Q. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 When I arrived in Kosovo, at 10.00 p.m., [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] And this is what happened.

17 And something like this happens only in Communist countries, in
18 dictatorial countries.

19 [Specialist Prosecutor confers]

20 MR. MICHALCZUK:

21 Q. Just maybe last question or questions about the consequence of
22 that measures that [REDACTED] took against you. What were the
23 consequences? [REDACTED]. What
24 else?

25 A. Yes. And [REDACTED] Ten

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1 days later they called me. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] They never used to do it in the past,

9 although we had the same rules, the same administrative instructions
10 regulating these issues, the same law, but they applied it only in my
11 case.

12 Q. You have just said, and you said that also before, that
[REDACTED]

13 [REDACTED]

14 [REDACTED] Could you clarify to the Court what do you mean by
15 that? Just for us to have a clear record of it.

16 A. I will repeat it again. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] from the moment I submitted the
21 documentation to them, it occurred later to them, just a week or two
22 before I came here, it occurred to them that they should [REDACTED]
23 [REDACTED] although this has never happened to [REDACTED]
24 [REDACTED] So because of me, now they are cutting it to other
25 people, because they knew that they would complain and they didn't

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1 want to uncover themselves.

2 Q. Okay. Everything is clear apart from the concept of [REDACTED]

3 [REDACTED] This is -- probably this is me who does not

4 understand that.

5 [REDACTED]?

6 Did I get it correctly?

7 A. Yes.

8 Q. And what is the [REDACTED]?

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. It is clear now. Thank you very much.

15 MR. MICHALCZUK: Your Honours, I don't have any further
16 questions. Thank you.

17 PRESIDING JUDGE VELDT-FOGLIA: Thank you very much. I look at
18 the clock.

19 Madam Court Officer, could you bring us back into public,
20 please.

21 [Open session]

22 THE COURT OFFICER: Your Honours, we're back in public session.

23 PRESIDING JUDGE VELDT-FOGLIA: Thank you, Madam Court Officer.

24 We are approaching 4.00, so that means that we are about to
25 adjourn the hearing till tomorrow.

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1 Mr. Witness, thank you very much for your time today. Let me
2 remind you that until tomorrow, you should not discuss your statement
3 with anybody.

4 THE WITNESS: [Interpretation] I understand. Thank you for the
5 explanation, Your Honour.

6 PRESIDING JUDGE VELDT-FOGLIA: You will be accompanied now by
7 Madam Court Usher to leave the courtroom. Try to rest and we see you
8 again tomorrow.

9 THE WITNESS: [Interpretation] Thank you. Thank you.

10 PRESIDING JUDGE VELDT-FOGLIA: Please, you can go.

11 THE WITNESS: [No interpretation].

12 PRESIDING JUDGE VELDT-FOGLIA: See you tomorrow.

13 [The witness stands down]

14 PRESIDING JUDGE VELDT-FOGLIA: Tomorrow, what we will do is --
15 you have finished your questioning, Mr. Prosecutor, you just informed
16 us.

17 Victims' Counsel, you will be given the floor. So I will do a
18 round to see if there's anything else you would like to raise for
19 today.

20 Mr. Prosecutor.

21 MR. MICHALCZUK: Nothing, Your Honours.

22 PRESIDING JUDGE VELDT-FOGLIA: Victims' Counsel.

23 MS. PUES: No, nothing. Thank you.

24 PRESIDING JUDGE VELDT-FOGLIA: Okay. Very well.

25 Defence counsel.

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1 MR. VON BONE: Nothing, Your Honour.

2 PRESIDING JUDGE VELDT-FOGLIA: Very well.

3 Good. If there's nothing else to raise, I will thank the
4 interpreters, the stenographer, the people of the audio-visual booth,
5 and security for their assistance today, and also, of course, the
6 parties and the Victims' Counsel.

7 The hearing is adjourned until tomorrow, 9.30.

8 --- Whereupon the hearing adjourned at 3.55 p.m.

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